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Central Administrative Tribunal, Principal Bench

Original Application No.77 of 2004

New Delhi, this the 11th day of March, 2004

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.K. Naik, Member(A)

1. Shri Arun Dutt Sharma
S/o Shri Devender Kumar Sharma,
Regional Plant Quarantine Station
FB Block, Sector-3
Salt Lake City,
KOLKATTA (W.B.)
2. Shri Hari Kishan Chadha
S/o Shri Ram Saran Dass Chadha,
National Plant Quarantine Station
Rangpuri, New Delhi-37
3. Shri Ram Chandra,
S/o Shri Venkata Rama Nappa
Regional Plant Quarantine Station
G.S.T. Road, New Prident Hotel,
Meenam Bakkam,
Chennai

.....Applicants

(By Advocate: Shri Shaad Anwar)

Versus

Union of India, through:-

1. The Secretary
Deptt. of Expenditure,
Ministry of Finance,
North Block,
New Delhi-1
2. Secretary (A&C)
Government of India,
Ministry of Agriculture
(Deptt. of Agriculture & Cooperation)
Krishi Bhawan, New Delhi
3. The Plant Protection Advisor,
Govt. of India
Directorate of Plant Protection
Quarantine and Storage N.H.4
Faridabad (Haryana)
4. Deputy Director (P.P.)
National Plant Quarantine Station
Rangpuri, New Delhi-37
5. Deputy Director (PP)
Regional Plant Quarantine Station
FB Block, Sector-3
Salt Lake City,
Kolkata (W.B.)

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6. Deputy Director
Regional Plant Quarantine Station
G.S.T. Road, New Trident Hotel,
Meenam Bakkam,
Chennai

.....Respondents

O R D E R (ORAL)

Justice V.S. Aggarwal:

The applicants are working as Mechanic (Electrical). By virtue of the present petition, they seek a direction that their pay scale should be upgraded from Rs.4500-7000/- to Rs.5000-8000/- with consequential benefits.

2. Learned counsel for applicants contends that when the 4th Central Pay Commission report came into being, the pay scales of Junior Scientific Officers were at par with the applicants, who are Mechanic (Electrical) and, therefore, according to him, after the 5th Central Pay Commission report, their pay scales cannot be reduced.

3. Learned counsel for applicants in this regard relies upon the report of the Anomalies Committee to contend that the Anomalies Committee even had recommended that the pay of the Mechanic (Electrical) may be upgraded to Rs.5000-8000/-.

4. We have heard the applicants' learned counsel.

5. When the recommendations of the Anomaly Committee were put up before the Government, the same have not been accepted.

6. It is true that under Article 14 read with Article 39 (d) of the Constitution, the principle of 'equal

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pay for equal work" has been recognised but it is not a fundamental right. It may be a constitutional goal.

7. The position in law is well settled that this Tribunal will only interfere if there is a hostile discrimination in fixing the pay scales. Otherwise, it is for the Executive to take into consideration all the relevant factors and fix the pay scale of a service or a cadre.

8. What is the position herein? The applicants are in totally different stream than Junior Scientific Officers. They are discharging different functions. Merely because they are in the same Ministry does not impel us to hold that same scale should be awarded. Revision of pay scale for one service/cadre does not necessarily imply that some benefit has to be accorded to the others. More recently, the Supreme Court in the case of **State of Haryana and Another v. Haryana Civil Secretariat Personal Staff Association**, (2002) 6 SCC 72 came heavily on this Tribunal holding that it is not for this Tribunal to fix the pay scales. It has held:

"10. It is to be kept in mind that the claim of equal pay for equal work is not a fundamental right vested in any employee though it is a constitutional goal to be achieved by the Government. Fixation of pay and determination of parity in duties and responsibilities is a complex matter which is for the executive to discharge. While taking a decision in the matter, several relevant factors, some of which have been noted by this Court in the decided case, are to be considered keeping in view the prevailing financial position and capacity of the State Government to bear the additional liability of a revised scale of pay. It is also to be kept in mind that the priority given to different types of posts under the prevailing policies of the State Government is also a

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relevant factors for consideration by the State Government. In the context of the complex nature of issues involved the far-reaching consequences of a decision in the matter and its impact on the administration of the State Government, courts have taken the view that ordinarily courts should not try to delve deep into administrative decisions pertaining to pay fixation and pay parity. That is not to say that the matter is not justiciable or that the courts cannot entertain any proceeding against such administrative decision taken by the Government. The courts should approach such matters with restraint and interfere only when they are satisfied that the decision of the Government is patently irrational, unjust and prejudicial to a section of employees and the Government while taking the decision has ignored factors which are material and relevant for a decision in the matter. Even in a case where the court holds the order passed by the Government to be unsustainable then ordinarily a direction should be given to the State Government or the authority taking the decision to reconsider the matter and pass a proper order. The court should avoid giving a declaration granting a particular scale of pay and compelling the Government to implement the same. As noted earlier, in the present case, the High Court has not even made any attempt to compare the nature of duties and responsibilities of the two sections of employees, one in the State Secretariat and the other in the Central Secretariat. It has also ignored the basic principle that there are certain rules, regulations and executive instructions issued by the employers which govern the administration of the cadre."

9. In the present case, reasons recorded above clearly indicate that there is no hostile discrimination. Resultantly, the applicants indeed cannot insist for the parity of pay scales, referred to above.

10. Petition being without merit must fail and is dismissed in limine.

S. K. Naik
(S. K. Naik)
Member (A)

V. S. Aggarwal
(V. S. Aggarwal)
Chairman

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