

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No.
T.A. No.

1397/92

199

(18)

5-12-97

DATE OF DECISION

All India Association of Inspectors
and others.

Petitioner

Shri Sant Lal

Advocate for the Petitioner(s)

UDI & Ors

VERSUS

Respondent

Shri K.R. Sachdeva

Advocate for the Respondent(s)

CORAM

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Shri S.P. Biswas, Member (S)

1. To be referred to the Reporter or not? *Y*

2. Whether it needs to be circulated to other Benches of the Tribunal?

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

Central Administrative Tribunal
Principal Bench

O.A. 1397/92

(19)

New Delhi this the 5th day of December, 1997

Hon'ble Smt Lakshmi Swaminathan, Member(J).

Hon'ble Shri S.P. Biswas, Member(A).

1. All India Association of Inspectors and Assistant Supdts of Post Offices, Central Headquarters through its General Secretary
Shri J.P. Saini son of Shri A.S. Saini, Inspector of Post Offices in the Postal Directorate, New Delhi.
2. All India Railway Mail Service Assistant Superintendents and Inspectors Association, Central Headquarters, through its Vice President and Circle Secretary (Delhi)
Shri K.C. Bhardwaj son of Shri T.R. Sharma, Assistant Supdt (Central Checking Squad), O/O the C.P.M.G. Delhi Circle New Delhi.
3. Shri R.C. Duggal son of Shri Dharamvir Duggal, Inspector of Post Offices in Postal Directorate, New Delhi.
4. Shri K.C. Bhardwaj son of Shri T.R. Sharma, Asstt. Supdt. R.M.S. (C.C.S), O/O the CPMG Delhi Circle, New Delhi.
5. Shri Ram Babu Sharma son of Shri Ram Pal Sharma, Inspector of Post Offices in the Postal Directorate, New Delhi.Applicants.

By Advocate Shri Sant Lal

Versus

1. Union of India, through the Secretary, Ministry of Communications, Department of Posts, Dak Bhawan, New Delhi.
2. The Secretary, Ministry of Finance, Department of Expenditure, North Block, New Delhi.Respondents.

By Advocate Shri K.R. Sachdeva

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

This application has been filed by the All India Association of Inspectors and Assistant Supdts. of Post Offices and the All India Railway Mail Service

18

Assistant Superintendents and Inspectors Association, for granting the pay scale of Rs.1640-2900 to the Inspectors and Rs.2000-3200 to the Assistant Superintendents of Post Offices and R.M.S. They claim that non granting of these pay scales to the applicants is discriminatory and violative of Articles 14,16 and 39(d) of the Constitution. They have, therefore, prayed for a direction to revise the pay scale of Inspectors of Post Offices and R.M.S. at Rs.1640-2900 w.e.f 1.1.1986 and to place them at par with comparable categories of staff in other departments and to direct the respondents to revise the pay scale of Assistant Superintendents of Post Offices and R.M.S. at Rs.2000-3200 w.e.f. 1.1.1986 and to grant them consequential benefits of arrears of pay and allowances in the revised pay scales.

2. The applicants have also filed a Miscellaneous Application (M.A. 987/97) which was heard along with the main application where they have placed on record certain documents. Shri Sant Lal, learned counsel for the applicants, has relied on the extracts of by Respondent 1 proposals made/ to the 5th Pay Commission with regard to the status, nature of duties and responsibilities of the applicants and its recommendations for upgradation, with their letter dated 7.2.1995 and the recommendations of the 5th Pay Commission. In particular, they rely on the recommendation relating to restructuring of Postal Service in which they have recommended that Inspectors of Post Offices and RMS should be merged, upgraded to Rs.1640-2900 and filled 33-1/3% by direct

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recruitment from the Inspectors' Grade Examination of Staff Selection Commission. Further recommendation has been made that Assistant Superintendents of Post Offices and RMS, which level will also consequently be merged, should be upgraded to the scale of pay of Rs.2000-3500. They have placed on record certain orders whereby the revision of pay scales has been given with retrospective effect from 1.1.1986 in respect of ASTTs/JEs/JTOs. Another letter relied upon by them is a letter from the Ministry of Finance dated 8.3.1995 regarding revision of pay scales of Inspectors of Customs and Central Excise at par with Inspectors of Police and CBI with reference to the judgement of the Tribunal (Jabalpur Bench) in O.A. 541/94, decided on 24.2.1995.

3. The matter has been carefully considered on the pleadings and the submissions made by the learned counsel for the parties. The respondents in their reply have submitted, *inter alia*, that the applicants/Associations had ample opportunity to present their case for revision of pay scales before the 4th Pay Commission. That Commission, however, had recommended that in the interest of efficiency of service it is necessary to introduce at an element of direct recruitment/ the level of Inspectors/ Assistant Superintendents through the Staff Selection Commission, and we recommend accordingly. They have further stated that if this is done and the two cadres are merged, Government may examine what scale of pay will then be suitable for these categories. Till then they had recommended the scales as ~~were~~ given in Chapter 8. The respondents have stated that the matter has been considered in detail, including the recommendations

(21)

of the 4th Pay Commission. They have submitted that merging the two cadres of Inspectors and Assistant Superintendents in the Postal as well as Railway Mail side would mean upgradation of all the posts of Inspectors to the level of Assistant Superintendents. They have also stated that this will disturb the existing relativities between the two cadres and there would be demands for upgradation of the scale for the posts of Assistant Superintendents. They have submitted that the case of the Inspectors and Assistant Superintendents in ^{not} their department is/ identical with that of Inspectors and Assistant Superintendents in other departments. Relying on a number of judgements, Shri K.R. Sachdeva, learned counsel, has submitted that it is not for this Tribunal to look into the structure of pay scales for different posts and to fix the same as this would cause a number of anomalies and disparities, particularly when the 5th Pay Commission has made their recommendations for fixation/revision of pay scales of the Central Government employees. They have also referred to the judgement of the Tribunal (Lucknow Bench) in O.A. 256/92, **A.K. Srivastava Vs. Union of India & Ors.** The learned counsel for the applicants laid great emphasis on the recommendation of the 5th Pay Commission and the recommendations made by the department to that Commission regarding the scales of pay. It has also been stated that the Department has finalised a proposal for introducing direct recruitment to the extent of 33 1/3% in the cadre, in consultation with the Staff Associations and that the IPOs/ASPS and IRMs/ASRMS need to be granted the same scales of pay as given to the Inspectors of Customs and Central Excise/Junior Engineers/JTOS. The note of the Department relied

82

23

upon by the applicant is dated 22.7.1995 and what is claimed in this application is pay parity in the higher scales w.e.f. 1.1.1986. In a catena of judgements (See **Union of India & Anr Vs. P.V. Hariharan & Anr.** (Civil Appeal No. 7127/93, decided on 14.3.1997) and **Indian Railway PWI Association Vs. Union of India & Ors.** (JT 1997(3) SC 445), the Supreme Court has categorically held that unless a clear case of hostile discrimination is made out, there would be no justification for interfering with the fixation of pay scales. It has been further held that the Tribunal should not normally interfere with the pay scale matters and it is the function of the Government which normally acts on the recommendations of the Pay Commission which is an expert body. In the present case, the change of pay scale of the applicants would have a 'cascading effect' and would also have an impact on the public exchequer if the relief claimed w.e.f. 1.1.1986 is granted. Taking into account the materials on record, therefore, we are unable to come to a conclusion that in 1986 the respondents were guilty of hostile discrimination against the applicants in respect of pay scales. The 4th Pay Commission had also dealt with the pay scales of the Inspectors and Assistant Superintendents. The element of direct recruitment which has been recommended as desirable in these posts by even the 5th Pay Commission cannot be ignored, and, therefore, in its absence in the previous years, we see no justification in extending the higher pay scales to the applicants with retrospective effect from 1.1.1986. Therefore, taking into account the totality of the facts and circumstances of the case, we are unable to accept the prayer of the applicants.

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24

4. In the facts and circumstances of the case, therefore, we find no merit in the application. The same is accordingly dismissed. No order as to costs.

S. P. Biswas
(S.P. Biswas)
Member(A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'