

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A. No. 1628/92
T.A. No.

199

(18)

DATE OF DECISION

30.7.92

<u>Shri Laxmi Narain</u>	Petitioner
<u>Shri M.N. Anand</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India</u>	Respondent
<u>Sh. M.L. Verma</u>	Advocate for the Respondent(s)

CORAM**The Hon'ble Mr. J.P. Sharma, Member (J)****The Hon'ble Mr. N.K. Verma, Member (A)**

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

JUDGEMENT**(Hon'ble Shri N.K. Verma, Member (A).)**

The applicant Shri Laxmi Narain an Assistant in the office of Development Commissioner for Cement Industry (DCCI) claims parity in pay with the Assistants working in the Central Secretariat Service, Indian Foreign Service (B), Railway Board Service and press for directing the respondents to revise the pay scale of the applicant from Rs.1400-2600 to Rs.1640-2900 w.e.f. 1-1-1986. He did not pray for any interim order but subsequently approached this Tribunal to condone the delay in filing this application through the M.P. No.2675/92.

2. The applicant was appointed as Assistant in the office of the DCCI in the pre-revised scale of Rs.425-800 which was later revised to Rs.1400-2600 w.e.f. 1-1-86 on the recommendations of the 4th Pay Commission. This was the pay scale applicable to all Assistants serving in the Central Secretariat Service

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as well as non-participating and attached offices including the office of the DCCI. However, the pay scales of the Assistants of the Central Secretariat Service were further revised to Rs.1640-2900 w.e.f. 1-1-86 as per the Ministry of Personnel, P.G. & Pensions O.M. dated 31-7-1990. This O.M. also stipulated that the revised pay scales shall be applicable to assistants and stenographers in other organisations like Ministry of External Affairs, etc which are not participating in the Central Secretariat Service and Central Secretariat Stenographers Service where the posts are in comparable grades on the same classification and pay scales and the matter of recruitment through open competitive examination is also the same. This order of the Ministry of Personnel, P.G. & Pensions was further extended under its orders dated 3-1-92 to Indian Foreign Service (B), Railway Board Secretariat Service, Armed Forces H.Qrs. Service, Election Commission, Central Vigilance Commission, Ministry of Parliamentary Affairs, etc where the method of recruitment is the direct recruitment through Assistant Grades Examination and Stenographers Grade Examination conducted by the Staff Selection Commission. The revised scale of pay, however, was not made applicable to the applicant inspite of the fact that the nature of duty of the applicant and the persons who are getting the revised scale are identical. The applicant has claimed that equal pay must be given for equal work as per the various pronouncements of the Hon'ble Supreme Court, High Courts and this Tribunal.

3. The applicant hold that this ^{dis}parity in the pay is very discriminatory and arbitrary and violative of articles 14 & 16 of the Constitution.

4. The respondents have ~~taken~~ the preliminary objection of no cause of action in favour of the applicant as fixation of pay or equation of pay is the responsibility assigned to the expert bodies like the Pay Commissions, Besides, the application being barred by limitation of time. Moreover,

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the application was contested as premature in view of the fact that the matter in application is subjudice with a Committee known as Joint Consultative Machinery of the Govt. of India. The cause of action having arisen in the matter was when the order raising the pay scale of Assistants in the Central Secretariat was issued on 31-7-90 whereas the applicant filed the application in May 1992 nearly two years after the cause of action arose. The pay scale of the Assistants in the Central Secretariat was actually revised in compliance with the orders of this Tribunal in OA 153/87 which was decided on 23-5-89. The pay scales were revised ^{in the recommendation of} by the Anomaly Committee directed to go into this matter as per this Tribunal's order. Since the Tribunal had also directed that this Anomaly Committee may also similarly dispose of any anomaly in the subject matter that may be pending before it, the revised pay scales were also made applicable to Assistants/Stenographers in other organisations like Ministry of External Affairs, etc who were not participating in the Central Secretariat Service and Central Secretariat Stenographers Service but where the posts were in comparable grade on the same classification and pay scales and the method of recruitment through open competitive examination is also the same. By subsequent orders the revised pay scales were also made applicable to other services like the Indian Foreign Service (B), Railway Board Service, Armed Forces Services, etc where direct recruitment is made through the same competitive examination. In its letter dated 3-1-91 the Ministry of Personnel, P.G. & Pensions also clarified that there has been no anomaly in the post of Assistants and Stenographers and other posts in the pre-revised scale of Rs.425-800 where the method of recruitment is not through the same open competitive examination as in the case of services covered in their orders. However, the cases where there was any merit or justification for revision of scale of pay for any post on functional basis in any organisation not covered by them the same could be

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examined in accordance with normal procedure for revision of scale of pay for any post. Keeping this position in view, the representation of All India Development Commissioner for Cement Industry Employees' Association was examined in details by the Govt. of India but the same was found to be unacceptable in view of the fact that the post of Assistant in DCCI is not having the same classification and the same method of recruitment through open competitive examination as that of Assistants in Central Secretariat Service and those of Indian Foreign Service (B), Railway Board Service, Armed Forces H.Qrs. Civil Service, Election Commission, Central Vigilance Commission, Ministry of Parliamentary Affairs, etc. where the method of recruitment is direct recruitment through Assistants Grade Examination. In the case of Assistants of DCCI prior to 1988, the method of recruitment was 50% by promotion and 50% by transfer/deputation/direct recruitment. According to recruitment rules modified in August, 1988, the post is now to be filled up 33.1/3% by promotion, 33.1/3% by direct recruitment. ^{23 1/3% by deputation.} In the Central Secretariat Service the method of recruitment is 50% by direct recruitment and 50% by promotion. Apart from this as per recruitment rules for the post of Assistants in the DCCI it was not specified that the recruitment is made through open competitive examination conducted by the Staff Selection Commission. In view of this position the Assistants of the DCCI do not get covered by the revised pay scale issued under the orders of the Ministry of Personnel, PG & Pensions dated 31-7-90 in regard to Assistants of the Central Secretariat Services etc.

5. We have heard learned counsels for both the parties. The learned counsel for the Applicant made strenuous attempts to prove that the Assistants in the DCCI are having the same type of work and responsibility as those of the Assistants in the Central Secretariat Service etc. He was, however, not able to contest the point that the DCCI was a subordinate office under the Ministry of Industry and there were several

such subordinate offices in the Central Government where the nomenclature of Assistants are available but where the content and duties of the work could not be compared with those of the Assistants in the Central Secretariat. The Assistants in the Central Secretariat are working in the Ministries where they are performing very onerous and responsible duties which is expected of any apex organisation. The Central Vigilance Commission, the Election Commission, the Ministry of Parliamentary Affairs- all these are apex organisations in their own field and the Assistants work and duties in these organisations could not be compared to the job performed by Assistants in other subordinate offices. Moreover, the rules of recruitments for the Assistants in the Central Secretariat and other Services are distinctly superior to those of the rules of recruitment prescribed for the Assistants in the DCCI. 50% of the recruitment in the Central Secretariat is through direct recruitment by open competitive examination and they are classified as Group (B) (Non-gazetted). The percentage ^{of direct recruitment} in regard to DCCI is significantly lower. In view of the very clear position stated by the respondents in the counter affidavit, we are not persuaded to interfere in the matter at this stage. This is a subject on which only an expert body like a Pay Commission or a Special Committee appointed by the Government can do justice. Accordingly we dismiss the application.

N.K. Verma
(N.K. VERMA)
Member (A).
30.7.1993

Jomara
(J.P. SHARMA)
Member (J)
30.7.1993