

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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OA 2100/92

06.11.1992

Shri Suraj Mal & Anr.Applicant

Vs.

Union of India & Anr.Respondents

CORAM :

Hon'ble Shri P.C. Jain, Member (A)
Hon'ble Shri J.P. Sharma, Member (J)

For the ApplicantShri M.S. Ganesh with
Shri C.P. Saxena

For the RespondentsNone

1. Whether Reporters of local papers may be allowed to see the Judgement?

2. To be referred to the Reporter or not?

J. P. SHARMA
(J.P. SHARMA)
MEMBER (J)

C. C. J.
(P.C. JAIN)
MEMBER (A)

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For the Applicant ... Shri M.S. Ganesh with
Shri C.P. Saxena

For the Respondents ... None

JUDGEMENT
(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J))

The applicants, ASI, Driver, Delhi Police jointly filed the amended application praying for the following directions to the respondents:-

- (a) To treat them at par with the Police Officers of Delhi Police, executive cadre, or
- (b) treat them as technical cadre and grant them the pay scales notified by the Ministry of Home Affairs by the letter dt. 23.12.1988, which are available to the Technical Officers in Delhi Police.

However, in para-8 of the reliefs, the reliefs claimed are as follows :-

- (i) direct the respondents to grant to the applicant/ drivers of the Delhi Police Grade-I and Grade-II i.e., Rs.330-480 and Rs.425-600 (pre-revised) as notified by the respondents by their Notification dated 22.9.1986 and revise them in accordance therewith (Annexure-I);

OR

- (ii) direct the respondents to grant to the

applicants/Drivers of the Delhi Police Grade-I and II, as circulated/notified by the respondents vide their letter dated 1.11.1988 (Annexure VI), i.e., Rs.380-560 and Rs.330-480 and revise them to Rs.1600-2600 and 1320-2040 respectively.

2. We have heard the learned counsel for the applicants on admission to find out whether the application is a fit case for adjudication or trial as required under Sub Clause 3 of Section 19 of the Administrative Tribunals Act, 1985.

3. The grievances of the applicants emerged from the judgement of the Hon'ble Supreme Court in Randhir Singh Vs. Union of India and Others, reported in 1982(3) SCR 298. In that case, the Hon'ble Supreme Court has directed the respondents to give to the drivers of Delhi Police the same pay scale as was paid to their counterparts in the Railway Protection Force. Since the judgement was not implemented by Delhi Administration. Maharaj Singh, one of the applicants herein filed the Writ Petition No.1432/87 before the Hon'ble Supreme Court. During the pendency of that Writ Petition, on 13.7.1988 Ministry of Home Affairs issued OM No.14014/35/86-UTP on the subject of equation of Delhi Police Drivers with those of the Railway Protection Force. The drivers of Delhi Police w.e.f. 1.1.1986 have been placed into three grades as follows:-

- (i) Grade-III, 55% posts, pay scale of Rs.950-1500,
- (ii) Grade-II, 25% posts, pay scale of Rs.1200-1800
- (iii) Grade-I, 20% posts, pay scale of Rs.1320-2040.

It is further mentioned in the above OM that the

drivers may have the rank of Constable/Head Constable/Assistant Sub Inspector. The promotion to the post of Head Constable, Grade-II and Assistant Sub Inspector, Grade-I shall be made as per the eligibility conditions prescribed in the Recruitment Rules for the posts and the Recruitment Rules may be amended suitably.

4. In the Writ Petition No.1432/87 of Shri Maharaj Singh, the Director in the Ministry of Home Affairs also filed an affidavit stating the implementation of the judgement of Randhir Singh's case. It is further stated in that affidavit that the drivers of Delhi Police Force were fixed in the pay scale at par with Railway Protection Force, i.e., Rs.260-400, which is the scale that was given to the Driver Constables. In the said affidavit, the averment in the Writ Petition of the petitioner, Shri Maharaj Singh and others was that they were entitled to the higher pay scale of Rs.330-480 and Rs.380-560, has been stated to be incorrect. It was further stated in the counter to the Writ Petition that the petitioners are not entitled to the revision of the pay scales effected in the RPF. This Writ Petition No.1432/87 of Shri Maharaj Singh was disposed of by the Hon'ble Supreme Court by the order dt.3.8.1988. It has been observed as follows :-

"At the hearing petitioners' counsel has agreed that the petitioner shall not be entitled to any relief prior to 1st January, 1984, when the two grades were created in the Railway Protection Force for the first time being Grades I and II with additional benefits in pay scale. Therefore, the claim for consideration in the writ petition is confined to the benefits between 1st January, 1984 and 31st December, 1985."

5. Finally the Writ Petition was disposed of with the following observation :-

"It is, however, clarified that in case benefit is to be admissible to the petitioner and others similarly situated, they will have to pass the same test which Railway Protection Force Drivers had to pass when they were given the benefit of Grades I and III w.e.f. 1st January, 1984. We would accordingly hold that the petitioner and the similarly situated constable drivers in the Delhi Police Force are entitled to the benefit from 1st January, 1984 subject to their passing the test and on being found qualified. Respondents are called upon to work out this process within six months hence and extend the benefits to those who are found qualified to have Grades I and II or corresponding scales thereof w.e.f. 1st January, 1984. We make it clear that there is no dispute for the period after 1st January, 1986."

6. After the decision of the said Writ Petition, the Ministry of Home Affairs vide letter No.14011/12/87 UTP dt. 23.12.1988 on the subject of revision of pay scales for the post of Head Constables (Draftsman)/MT Store Clerk/ASI/SI (Radio Technical)/Wireless Operator/Senior Accidental Services Technician etc., issued revised scales of pay w.e.f. 1.1.1986. The Ministry of Home Affairs on 1.11.1988 issued another OM NO.14014/35/86-UTP on the subject of equation of Delhi Police Drivers with those of Railway Protection Force on the direction in the Writ Petition No.1432/87 (Maharaj Singh Vs. Union of India & Others). In this OM prior to 1.1.1986, the pay scales for three grades which were made applicable w.e.f. 1.1.1984 have been placed in the following scales of pay :-

- (i) Grade-III in the pay scale of Rs.260-400,
- (ii) Grade-II in the pay scale of Rs.330-480, and
- (iii) Grade-I in the pay scale of Rs.380-560.

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This was subject to the OM issued by the Ministry of Home Affairs dt. 13.7.1988, referred to above. The pay of the present applicants has since been fixed by the OM dt. 13.3.1989 (Annexure IX) that of Shri Suraj Mal, SI, applicant No.1 w.e.f. 1.1.1985 at Rs.392 and w.e.f. 1.1.1986 at Rs.404 in the pay scale of Rs.380-12-500-EB-15-560 and w.e.f. 1.1.1986, his pay has been fixed in the revised pay scale of Rs.1320-30-1560-EB-40-2040 at Rs.1350. Similarly the pay of the other applicant has been fixed.

7. Now looking to the case of Randhir Singh (supra), the Hon'ble Supreme Court has directed the respondents to give the benefit to the Constable Drivers of Delhi Police to the same extent as it has been given to the Drivers of Railway Protection Force. When the judgement was not implemented, Writ Petition No.1432/87 was filed. From the counter affidavit filed by the respondents, the Hon'ble Supreme Court on 27.7.1988, a copy of which has been filed as Annexure III, the deponent on behalf of the respondents has denied the averment in the Writ Petition that the petitioner of the Writ Petition, i.e., the present applicant Shri Maharaj Singh and others are entitled to the higher pay scales of Rs.330-480 and Rs.380-560 so as to place them at par with their counterparts, i.e., Drivers of the Railway Protection Force. Further it is also stated in para-4 at p-27 of the paper book that the action of the respondents in not giving the benefit of the higher pay scale of Rs.330-480 and dRs.380-560 (prerevised) is not arbitrary, discriminatory and contrary to the Writ of

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Mandamus issued in Randhir Singh's case. Now in the judgement given by the Hon'ble Supreme Court in the aforesaid Writ Petition (Annexure IV), it is clearly stated that "We make it clear that there is no dispute for the period after January, 1986." The relevant portion of the said judgement has already been referred to above. The applicants in the present application have also claimed the relief on the basis of this OM dt.23.12.1988 (Annexure V). However, the applicants could not assail now the said circular in their favour in view of strict provision of limitation under Section 21 of the Administrative Tribunals Act, 1985 which allows a period of one year or after making a representation and waiting for six months, then one year to assail the grievance before the Tribunal. In this case, the applicants have made a representation only on January 1, 1992 and after that, they have filed this application in the Tribunal in August, 1992. Thus the relief with regard to getting the revision of pay scales for the post of Head constable etc. at par with those working in technical branch cannot be said to be within limitation. Further the Hon'ble Supreme Court in the aforesaid judgement in the last paragraph, referred to above, has clearly stated that there is no dispute for the period after 1.1.1986. The applicants cannot every time enlarge the scope of their monetary benefits irrespective of the fact that the matter has been decided earlier in Randhir Singh's case

and subsequently in the Writ Petition of the applicant, Shri Maharaj Singh, referred to above.

8. Similar is the position with regard to the OM dt. 1.11.1988 which was on the subject of equation of Delhi Police Drivers with those of Railway Protection Force and three grades were created prior to 1.1.1986. The scale has also been fixed as Grade-I (Rs.380-560), Grade-II (Rs.330-480) and Grade-III (Rs.260-400). The applicants cannot now assail that OM on the ground that the scales of the grade should be revised to that, which have been prescribed for the Technical Officers in Delhi Police. This is also hit by the same reasoning regarding the benefit of OM dt. 23.12.1988.

9. The present application, therefore, is not maintainable as it does not make out a case for adjudication after the decision rendered by the Hon'ble Supreme Court and also that the relief claimed by the applicants is hit by limitation as provided under Section 21 of the Administrative Tribunals Act, 1985. The application is, therefore, dismissed at the admission stage itself as not maintainable.

J.P. SHARMA
(J.P. SHARMA)
MEMBER (J)

Dec 6/1/92
(P.C.JAIN)
MEMBER (A)