

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 2529 of 1992

New Delhi, this the 11th day of November, 1997

Hon'ble Dr. Jose P. Verghese, Vice Chairman(J)
Hon'ble Mr. N. Sahu, Member(Admnv)

M.S.Talwar son of late Shri S.S.Talwar,
resident of A-2526, Netaji Nagar, employed
as Deputy Commissioner(Agricultural Credit),
Department of Agriculture & Cooperation,
Ministry of Agriculture, Krishi Bhavan,
New Delhi.

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- APPLICANT

(By Advocate Shri C.B.Pillai)

Versus

Union of India through

1. Secretary to the Government of India,
Department of Agriculture & Cooperation
Ministry of Agriculture, Krishi Bhawan,
New Delhi.
2. Secretary to the Government of India,
Department of Economic Affairs,(Implemen-
tation Cell),Ministry of Finance,
New Delhi.

- RESPONDENTS

ORDER (ORAL)

By Dr. Jose P. Verghese, VC(J).-

The applicant was employed as Deputy Commissioner in the Department of Agriculture and Cooperation and was in the Agricultural Credit Division in the pay scale of Rs.1300-1700 with effect from 1.2.1985. A question of parity in pay scale in the Department of Agriculture and Cooperation was the subject matter of Fourth Pay Commission and the Agricultural Credit was one of the divisions in the Department of Agriculture and Cooperation. At para 10.3 of Chapter Fourth of the Fourth Pay Commission Report it was stated that there are Group "A" technical posts in various divisions in the

Department of Agriculture and Cooperation, dealing with subjects like Animal Husbandry, Dairy, Crops, Extension, Fishery, Soil Conservation, fertilizers and Seeds. The posts are in 10 different pay scales and carry different designations. Considering the disparity in the different pay scales, the Fourth Pay Commission recommended that "Dy. Commissioners, Specialists, Joint Director (Rs.1300-1700) and Dy. Commissioner/Director (Rs.1500-1800) may be given the scale of Rs.3700-5000".

2. The case of the applicant is that the recommendation of the Fourth Pay Commission was pertaining to the entire Department of Agriculture and Cooperation and the recommendation was meant for all the divisions and the reference to some divisions in the recommendation was only by way of illustration. It was further stated by the counsel for the applicant that the final recommendation by the Fourth Pay Commission did not confine to any particular division whether it was to comprise of the posts of Dy. Commissioners, Specialists and Joint Director in the pay scale of Rs.1300-1700 in the Department of Agriculture and Cooperation. But, it was further stated by the applicant that the Ministry of Finance while finalising the recommendation, left some divisions out of the benefits recommended by the Fourth Pay Commission under the Ministry of Agriculture, Department of Agriculture and Cooperation. The notification of the Finance Ministry specified only 8 divisions and left out the division where the applicant was working as Deputy

Commissioner. It was also stated by the counsel for the applicant that subsequently the respondents have given this benefit to the Dy. Commissioners of all other divisions including that of horticulture division and the respondents have singled out the division of the applicant and the applicant alone happened to have been denied of the benefit of the recommendations. Even though the recommendations of the Fourth Pay Commission was to cover all the posts of Dy. Commissioners in the Department of Agriculture and Cooperation, the contention of the learned counsel for the applicant is that, denying the benefit of the recommendations of the Fourth Pay Commission by singling out the division of the applicant and excluding the post to which the applicant held i.e. Dy. Commissioner (Agricultural Credit) is discriminatory and in violation of Articles 14 and 16 of the Constitution of India.

3. After notice, the respondents filed the reply and stated that the post of Deputy Commissioner (Agricultural Credit) was not specifically mentioned in the recommendations of the Fourth Pay Commission. The pay scale of the Deputy Commissioner (Agricultural Credit) has not been fixed at Rs.3700 -5000 but has been fixed at Rs.3000-5000.

4. The reason given for denying the benefit of the recommendation to the applicant and discriminating the applicant by singling out his division alone from the benefit of the recommendations of the Fourth Pay Commission, seems

not correct; the Fourth Pay Commission's recommendations did include all posts of Dy. Commissioners in the Department of Agriculture and Cooperation and it is the notification issued by the Ministry of Finance that some of the divisions happened to be excluded and since the respondents themselves have considered all other divisions, including those not mentioned in the notification of the Ministry of Finance, and proceeded to grant the benefit, singling out the division of the applicant alone and denial of the same benefit of the recommendations of the Fourth Pay Commission to the post of the Dy. Commissioner held by the applicant alone, is in our opinion, discriminatory and the same would violate the equality principle guaranteed under the constitutional provisions.

5. The Hon'ble Supreme Court in a number of decisions has observed with displeasure similar acts of singling out a post for the purpose of treating differently, thereby denying the benefit to the incumbent of the said post alone. The applicant has cited before us a decision of the Hon'ble Supreme Court in the case of **Employees of Tennary and Footwear Corporation of India Vs. Union of India**, SCSLJ 1990 578.

6. In the circumstances, this O.A. is allowed and the order rejecting the representation of the applicant, namely, the one dated 21.4.1992 is set aside. The respondents are directed to consider the

implementation of the recommendation of the Fourth Pay Commission in favour of the applicant with effect from the date from which the same has been implemented in respect of Dy.Commissioners of all other divisions and pass appropriate orders within two months from the date of receipt of a copy of this order, in the light of the findings recorded hereinabove. Since this O.A. has been filed in the year 1992, the applicant will be entitled to arrears of payment only from one year prior to the filing of this OA. No orders as to costs.

N.Sahu
(N.Sahu)
Member(Admnv)


(Dr. Jose P. Verghese)
Vice Chairman(J)

rkv.