

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 2538 of 1992 decided on 29.5.98

Name of Applicant: Dwarika Prasad Pant

By advocate: Sh. K. L. Sharma

Versus

Name of Respondents: Chief Secy. Delhi Administration


By advocate: Sh. Rajinder Pandita

Coram

Hon'ble Mr. N. Sahu, Member (A)

Hon'ble Dr. A. Veda Valli, Member (D)

1. To be referred to the Reporter or not? y
2. Whether to be circulated to other Benches of the Tribunal? .w.


(N. Sahu)
Member (A)



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Central Administrative Tribunal

PRINCIPAL BENCH

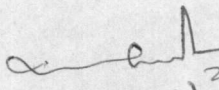
Shri. Hon'ble Dr. A. Vedavalli Vice-Chairman
Member (I)


Pre - delivery ORDER in

T.A. / O. A. No. 2538 of 1992

is sent herewith for Consideration.

recd
26/5/98


(N. SAHU) 26/5/98
MEMBER (ADMINV)
26.5.1998

Thanks. I agree and have signed the
order. With regards.

26/5/98

Hon'ble Shri N Sahu - Member - (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.2538 of 1992

New Delhi, this the 29th day of May, 1998

Hon'ble Mr. N. Sahu, Member(Admnv)
Hon'ble Dr. A.Vedavalli, Member(J)

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1. Sh. Dwarika Prasad Pant, S/o late Sh. Rameshwar Dutt Pant, No.8-T, Tailor, 4th Battalion, D.A.P., resident of House No.103, Street No.12-B, Khajoori Colony, Delhi-110094.
2. Sh. Hari Parkash, S/o Sh. Ram Rattan, No.2-T, Tailor, 8th Battalion, D.A.P., resident of house No.143, Masjid Moth, New Delhi.
3. Sh. Nandan Singh S/o Sh. Bheron Singh, Tailor, No.1-T, Vth Battalion, D.A.P., resident of A-124, Nehru Vihar, Delhi-110054.
4. Sh. Ali Sher Khan, S/o Sh. Bachu Khan, No.2-T, Vth Battalion, D.A.P., resident of village Ahmad Nagar, Nangla Badi, Ratol, District Meerut (U.P.).
5. Sh. Kamal Singh, S/o Sh. Net Ram, Tailor, No.1-T 2nd Battalion, D.A.P., resident of Quarter No.D-51, New Police Lines, Delhi.
6. Sh. Ram Kumar, S/o Sh. Madu Ram, No.2-T, Tailor, 1st Battalion, D.A.P. Villagae Karala Police Station Sultan Puri, Delhi.
7. Sh. Umed Singh S/o Sh. Hukam Chand, No.5-T, Tailor, D.A.P., 4th Battalion, resident of Village Heer Majra, Post Office and Tehsil Ganor, Haryana State.
8. Sh. Sudhir Rallan, S/o Sh. Om Parkash Rallan, Tailor, I-T, 8th Battalion, D.A.P. resident of house No.1461, Wazir Nagar, Street No.6, Kotla Mubarkpur, New Delhi-110003.
9. Sh. Shamim Azad, S/o Sh. Mohd. Nai-ud-din, Tailor, No.1-T, P.A.P. Lines, Palam Airport, Delhi.

10. Sh. Braham Parkash, S/o Sh. Kanhya Lal, No.1-T, Tailor, 7th Battalion, D.A.P., resident of A-99, Police Station Saraswati Vihar, New Delhi.
11. Sh. Surender Singh, S/o Sh. Jodha Singh, No.1-T, Tailor, Police Station Bhajanpura, North East District, resident of Police Station Bhajanpura, Delhi-110014.
12. Sh. Hari Narain, S/o Sh. Lachmi Narain, No.2-T, Tailor, 10th Battalion, D.A.P. resident of 3/26, Old Rajender Nagar, New Delhi-110066.
13. Sh. Manohar Lal, S/o Sh. Charan Das, No.2-T, Tailor, 7th Battalion, D.A.P., resident of Quarter No.H/T, Lodhi Colony Police Station, New Delhi.
14. Sh. Naresh Kumar S/o Sh. Laxmi Narain, No.1-T, Tailor, Police Station, Sarai Rohilla, North District, Delhi-7.

-APPLICANTS

(By Advocate Shri K.L.Sharma)

Versus

1. Chief Secretary, Delhi Administration, 5, Sham Nath Marg, Delhi.
2. Commissioner of Police, Police Headquarters, I.P.Estate, New Delhi.

-RESPONDENTS

(By Advocate Shri Rajinder Pandita)

ORDER

By Mr. N. Sahu, Member(Admnv) -

14 applicants working in Delhi Armed Police/ Delhi Police as Tailors seek equal pay for doing the same work as those of the counterparts in other departments under Delhi Administration and Central Government departments, in particular, they have compared their job contents with those of Tailors employed in the Rehabilitation Department of Delhi

Administration; Directorate of Social Welfare, Delhi
Administration; and Deputy Controller of Stores,
Northern Railway, Shakurbasti.

2. The applicants state that the nature of the job undertaken by them is similar to the Tailors in the departments referred to above. In addition, special jobs are done by them during Police Games, Tattoo Shows, Ceremonial Parades. Their grievance was placed before a senior police official Shri B.K.Mishra, Deputy Commissioner of Police, who in his report dated 28.5.1980 sent a report to the Police Headquarters. He stated that the applicants were in the pay scale of Rs.40-60 in the year 1951-52. The Police Department recruited Tailors with Diploma in Tailoring from I.T.I. subsequently, and they were in the pay scale of Rs.85-110. Consequent to the revision of pay scales by the Third Pay Commission the pay of the Tailors was revised in the pay scale of Rs.210-4-226-4-250-EB-5-290 with effect from 1.1.1973. He recommended a scale of Rs.330-560 to the applicants with a selection grade of Rs.380-640 to Tailors with qualifying service of 14 years. His recommendation is in accordance with the recommendations of the Third Pay Commission in case of skilled Central Government servants. The reasons for this recommendation are that they are highly skilled workers and they perform their duties without any Supervisor Tailor. Their duties include cutting, tailoring, repairing, altering and designing. The uniforms stitched by them are used by Delhi Armed Police personnel. Besides the above, they are

entrusted with special jobs like preparation of new rexine seats and seat covers of all types for use in vehicles of Delhi Police department. They state that in other departments of Delhi Administration the Tailors get a higher pay scale, whereas the applicants are getting a pay scale of Rs.800-1150. In the Rehabilitation Department of Delhi Administration the scales are Rs.950-1500 for Helper Tailor, Rs.1200-2040 for Male Tailor; and Rs.1350-2200 to Master Cutter. They have compared their pay scale with that of Tailors in Northern Railway and with the Tailors in the Directorate of Social Welfare, Delhi Administration. Their grievance is that Washermen and Barbers in Delhi Police are getting higher pay scale of skilled workmen and even they are getting more pay than the applicants.

3.. Stating that the equal pay for equal work is one of the constitutional goals under Article 39(d) of the Constitution, the applicants relied on the following decisions of the Hon'ble Supreme Court - Randhir Singh Vs. Union of India and others. (1982) 1 SCC 618; P.K.Ramachandra Iyer Vs. Union of India. AIR 1984 SC 541 = (1984) 2 SCC 141. They state that the applicants have long experience in the department and they were recruited on the basis of past experience in the trade. They qualified the trade test at the time of their initial appointment and they are even paid less than washermen and barbers. Because they hold highly skilled post, they ought not to be treated differently in the matter of their pay.

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merely because they belong to a different department. Their case should not suffer because they belong to a disciplined force. They claim that they performed duties during odd hours at various places under trying circumstances. Their duties include work during closed days and holidays and they are not paid any overtime allowance unlike other departments. In Randhir Singh's case (supra) it was found that the applicant and other Drivers in Delhi Police Force perform the same functions and duties as other Drivers in the service of the Delhi Administration and the Central Government. The Hon'ble Supreme Court held that there was no reason for giving them lower scale of pay than other Drivers. In P.K. Ramachandra Iyer's case the new recruits got the benefit of revision of scale but not the petitioner, although the petitioner and the new recruit performed the same type of job. This was considered to be a glaring example of discriminatory treatment. In P.Savita Vs. Union of India, 1985 (Supp) SCC 94 the artificial division of Senior Draftsman in the Ministry of Defence Production with unequal scale of pay for the same work was struck down. On the above authorities the applicants pray for treating them at par with Tailors working in Delhi Administration and they want the pay scale to be fixed at par with that of Master Cutters i.e. Rs.1350-2200 in force in the Rehabilitation Department of Delhi Administration with consequential benefit of revision of pay scales and promotional prospects in the same manner as enjoyed by their counterparts in Delhi Administration.

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4. After notice, the respondents vehemently contested each and every submission made by the applicants. It is stated that the applicants are recruited against Class-IV posts. The Fourth Pay Commission did not consider the jobs of the applicant-Tailors as Skilled. The nature and duties of Tailors in other departments are different compared to the applicants. It is further stated that the pay scale of the Tailoring Departments, in which job of Tailoring exists, are based on diploma certificate granted by the recognized institution before recruitment. For instance in the Rehabilitation Department for the post of Helper Tailor the educational requirement is Middle School or High School certificate besides two years trade practice from a recognized Government institute. Similar qualifications and trade certificates exist for a Tailoring Instructor as well as the Male Tailor. For a Master Cutter, whose scale the applicants claim, the qualification required is a Diploma in Cutting & Tailoring with three years service. In Social Welfare Department also similar Diplomas in Cutting/Tailoring from recognized ITI with three years practical experience is insisted upon at the recruitment stages. It is also submitted that the pay scales of Tailors and Carpenters are fixed by the Government of India and not by the Police Department. In particular, the applicants have been appointed only as a Group 'D' employees in Delhi Police and do not come in the category of workshop staff. At para 4.8 of the counter the

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duties of Tailors in Delhi Police is stated to be simply tailoring, repairing, cutting and altering the uniforms. Even for Washermen and Barbers the pay scales are granted by the Government of India and not by the Police Administration. All other claims relating to long hours of work in odd places are denied or commented upon by the respondents. They state that the work performed by the Tailors of Delhi Police is of an ordinary and simple nature not requiring any specialized skill. On the contrary the nature of work of a Craft Instructor Tailoring in Social Welfare Department of Delhi Administration is basically an instructional job and it is a Group 'C' post. The learned counsel for the respondents relied on the following decisions - Shri Rohtak Singh and others Vs. Union of India & others, 1996 (2) SLJ(CAT) 580 and Union of India and another Vs. P.V. Hariharan and another, 1997(2) SLJ 127. He also stated that the application is defective on account of non-joinder of necessary parties and for this purpose he relied on the decision of the Hon'ble Supreme Court in the case of Ajay Hasia Vs. Khalid Mujib Sehravardi, (1981)1 SCC 722.

5. We have carefully considered the rival submissions. There is an exhaustive discussion in the latest decision of the Hon'ble Supreme Court in the case of State of Tamil Nadu and another Vs. M.R. Alagappan and others, 1997 SCC(L&S) 1080, in which their Lordships held that in spite of substantial similarities in duties and responsibilities and interchangeability of posts, the

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doctrine of equal pay for equal work would not be applicable. There are distinguishing features like educational qualifications for appointment, mode of recruitment, (whether it is direct recruitment or promotion), status (whether gazetted or non-gazetted), special assignment entrusted to one category only and different seniority lists. In the case of Garhwal Jal Sansthan Karmachari Union and another Vs. State of U.P. and others. (1997) 4 SCC 24 their Lordships have held that the principle of equal pay for equal work is not applicable even though there is similarity in the duties and functions if there is qualitative difference in the duties, functions and responsibilities between two organizations.

6. After going through the pleadings and considering the submissions of the learned counsel of parties, we find that the conditions of recruitment of the applicants and those of their counterparts in Delhi Administration and Central Government are totally different. It is not the case of the applicants that they were recruited with the same qualifications as those of their counterparts. They have not acquired the qualification for ITI nor the work experience in a recognized institution before their recruitment. Secondly, the nature of the jobs of the applicant is qualitatively different with the jobs performed by their counterparts. Finally, the applicants are recruited to Group "D" post. The salary claimed by them cannot be compared to those persons who are recruited to Group "C" posts. Further, the applicants cannot compel uniformity in

pay scales with the Tailors of the rest of the organizations because pay scales in other organizations have a different background, a different history, a different work culture. In each department compared by the applicants there has evolved some promotional avenues also and there is a hierarchical grade but not so in the applicants' case. This is a historical anomaly. It may even be an anachronism but it is not a function of the court to review similar pay scales of Tailors of all the Institutions and suggest uniform pay scales across the board. Such a function is the exclusive prerogative of a Pay Commission. Unfortunately, even the respondents are not convinced that there is an anomaly in the pay scales granted to the applicants. Mr. Pandita, has rightly argued that a suggestion of a senior officer would not per se justify revision of a pay scale. The respondents cannot do it by themselves. This requires Government's sanction and this revision cannot be confined to a few applicants. It has to be viewed in the larger context of the pay scale of Group 'D' employees, skilled workers, and even if sympathy was to be shown to the applicants how best the said sympathy can be concretized in such a manner as not to offend or unsettle other existing patterns of pay scales of similarly placed Group 'D' staff.

7. The applicants are at present placed in the pay scale of Rs.800-15-1010-EB-20-1150 under Central Civil Services (Revised Pay) Rules, 1986. They have prayed for grant of pay scale of Rs.1350-2200/-

attached to the post of Master Cutters in the Rehabilitation Department of Delhi Administration. Because of different conditions of recruitment, qualification and qualitative difference, in their duties performed, between the applicants and Master Cutters, there is no justification to press forward any claim for equal pay. There is also perceptible difference between the applicants and Tailors in other departments in respect of qualification and conditions of recruitment.

8. In view of the law laid down by the Hon'ble Supreme Court in M.R.Alagappan's case (supra), the Original Application is dismissed. No costs.

A. Vedavalli
(Dr. A. Vedavalli)
Member(Judicial)

N. Sahu
(N. Sahu)
Member(Admnv) 29.5.9

rkv.