

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.2629 /1992

Date of Decision: 16 - 7 - 1998

Shri Assn. of Workers of Bindery
Staff of GOI Press
(By Advocate Shri K.N.R. Pillay)

APPLICANT

versus

Union of India & Ors. ..
(By Advocate Shri N.S. Mehta)

RESPONDENTS

CORAM:

THE HON'BLE SHRI T.N. Bhat, Member (J)

THE HON'BLE SHRI S.P. BISWAS, MEMBER (A)

1. TO BE REFERRED TO THE REPORTER OR NOT? YES

2. WHETHER IT NEEDS TO BE CIRCULATED TO OTHER BENCHES OF THE TRIBUNAL? ✓


(S.P. Biswas)

Member (A)

16.7.98

Cases referred:

1. Delhi Vet. Assn. Vs. UOI 1984 (3) SCC 1
2. Secy/ Finance V. West Bengal Regn. Assn. & Ors *IR 1992 SC 1203
3. State of WB V. H.N. Bhowal 1994 Col. 27 ATC 524
4. State of Haryana V. Ram Chander JT 1997 (5) 217
5. State of UP & Ors. V. Ministerial Karmachari Sangh, JT 1997 (8) SC 415

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 2629/1992

New Delhi, this 16th day of July, 1998

(5)

Hon'ble Shri T.N. Bhat, Member (J)
Hon'ble Shri S.P. Biswas, Member (A)

1. Association of the Workers of Bindery
Staff of Govt. of India Presses
Through its General Secetary
Shri R.K. Singh
4/18, Rouse Avenue, New Delhi

2. Shri Jai Ballabha
G-30, Old Press Colony, Faridabad .. Applicants
(By Advocate Shri K.N.R. Pillay)

versus

Union of India, through

1. Secretary
Ministry of Urban Development
Nirman Bhavan, New Delhi
2. Director of Printing
Nirman Bhavan, New Delhi

(By Advocate Shri N.S. Mehta)

ORDER

Hon'ble Shri S.P. Biswas

The applicants allege discrimination against bindery staff of Government of India (GOI for short) presses under Respondent No.2 as compared to similarly placed staff performing identical duties in the Railway Presses. They are challenging A-1 communication dated 27.5.92 as their claim for same scale and clasification as bindery staff on the lines of Railway Presses have been rejected. Consequently, applicants have sought for issuance of directions to the respondents to grant them pay scale and percentage distribution of posts of bindery staff in GOI presses as in the Railway Presses, particularly in the category of Foreman, Section Holder, Master Craftsmen, Binder Grade I, Binder Grade II and Bindery Assistant etc.

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2. The background facts leading to the filing of this original application, in brief, are as under.

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The Fourth Pay Commission made the following recommendations in respect of pay scales of printing staff:

"We feel that the appropriate course would be to reclassify and remunerate the various jobs in the presses broadly in accordance with the scheme we are proposing for the other workers in the workshops by an inter-departmental committee consisting of representatives from all the major ministries employing printing staff. The committee may look into all the relevant aspects like reclassification of posts, promotion channels and other related matters so that there may be uniformity in the classification, pay scales etc. of printing staff. Till then, the revised scale of pay recommended in Chapter 8 may apply".

3. Pursuant to the above recommendations, GOI appointed an Inter-Departmental Committee (IDC for short) to consider reclassification and remuneration of various jobs in the presses under different Ministries. What exactly transpired out of the report submitted by the IDC is not known. But the orders issued by the GOI/Ministry of Finance on 31.10.89 reportedly on the basis of the said IDC report are at Annexure A-IV. A set of new pay scales meant for the Government Presses in different Ministries was introduced as at para 2 of the orders dated 31.10.89. Ministry of Urban Development thereafter issued orders dated 30.8.90 revising the pay scales and classification of various posts in the printing presses under the control of Directorate of Printing. Applicants are

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aggrieved because Binder Grade II (75% of which cadre consist of promotees from bindery assistants and 25% of direct recruits) have been reduced in status and merged with bindery assistants in the scale of Rs.950-1500. The promotions which the Binders Grade II had achieved after long years of service as bindery assistants were cancelled by a stroke of the pen and these persons have been virtually reverted as bindery assistant though allowed to retain the scale of pay of Rs.950-1500. Again, Gold Finishers who were promoted from Binders Grade I on the basis of trade test have been reverted to the posts of Binders by merging their scale with that of the new post of Binders. Binders in the Ministry of Defence, who were earlier in the scale of Rs.1150-1500 like those in the Directorate of Printing have been granted, on the contrary, scale of Rs.1200-2040, whereas those in the Directorate of Printing have been discriminated in terms of pay scale i.e. Rs.1200-1800 for the same category of staff of Binder Grade I. In the Defence Presses those who were above Binder Grade I (like Gold Finishers and Special Grade Binders in the GOI Presses) have been allowed the scale of Rs.1400-2300 of Master Craftsman.

4. Applicants would further contend that the principle of uniformity has been ignored without giving any reasons to the disadvantage of the staff of GOI presses, who have been given a raw deal both in terms of scale of pay as well as classification

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as compared to their counterparts in the Ministry of Defence and Railways. This has been done when admittedly the printing work of GOI presses is of a much wider variety and much more in volume than their counterparts in other Ministries, applicants contended. The main plank of applicants' attack is with reference to equal pay for equal work for those in the binding category particularly. It has been submitted that the entire group of promotees and direct recruits with about 20 years of service have been reverted in status as bindery assistants pursuant to the impugned order dated 27.5.92.

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5. Respondents have denied the claims including the charge of ~~discrimination~~ discrimination. Respondents would submit that bindery staff of GOI presses have been provided with the pay scales as recommended by the Ministry of Finance, vide their order dated 31.10.89. If any other Ministry/Department have deviated from the pay scale even knowingly, respondents are not in a position to give any relief theron. It has been denied that Binders Grade II have been reduced in status. As a matter of fact, the pay scale of erstwhile Binder Grade II which was Rs.950-1400 has now been raised to Rs.950-1500. The category of Bindery Assistant has been upgraded to the stage of Binder Grade II and both categories have been merged. Those who were earlier Binders Grade II will rank as senior to the erstwhile Bindery Assistants. The pay drawn by Grade II Binders has been protected.

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6. Respondents would further contend that the Ministry of Finance have vide their OM dated 31.10.89 laid down 7 pay scales for various classification of posts. It is not known in what circumstances the pay scale of Rs.1200-2040 has been given to binders of Ministry of Defence. In GOI presses also there are pay scales of Rs.1400-2300 for Section Holders (Binday) and Rs.1600-2660 for Foreman (Bindery). As there are large number of categories in GOI presses, an attempt has been made to reduce their number and hence the pay scale of Rs.1320-2040 has been deliberately omitted. The point to be appreciated is that 50% of the Bindery staff was in the pay scale of Rs.800-1150 and their pay scales have been raised to Rs.950-1500. Further, the categorisation of this 50% staff has been raised from semi-skilled to skilled and status from Class IV to Class III. In the case of 40% of the staff who were previously binders Grade II, the pay scale has been raised from Rs.950-1400 to Rs.950-1500 without disturbing their categorisation or status. Again, for the remaining 10% staff, who were previously redesignated as Binder Grade I, the pay scales have been raised from Rs.1150-1500 to Rs.1200-1800. Further their categorisation has been raised from skilled to Highly skilled.

7. We shall now bring out the legal position on this subject.

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The Hon'ble Supreme Court in its decisions in the case of Delhi Vet. Assn. Vs. UOI 1984(3) SCC 1, Secretary/Finance v. West Bengal Regn. Assn. & Ors. AIR 1992 SC 1203 and State of West Bengal Vs. H.N.Bhowal 1994 Col.27 ATC 524, has laid down the parameters/factors to be considered while evolving appropriate pay scale for a group of class of employees. These include method of recruitment, minimum educational and technical qualifications required, nature of duties and responsibilities, heirarchy of service in the given cadre, avenues for promotion, horizontal and verticle relativity with similar jobs, public dealings, satisfaction levels and employer's capacity to pay. In addition, the degree of skill, strain of work, experiences involved, trainings required, disagreeableness of the task, hazards attendant on work and fatigue involved are, according to the Third Pay Commission, some of relevant factors which should be taken into consideration for fixing pay scales. Above all, there has to be a clear cut case of discrimination against those who are claiming such parity (emphasis added).

8. The Court/Tribunal should normally accept the decisions taken on the basis of recommendations of the Pay Commission(PC for short), which is an expert body to determine such matters. However, in some cases where it is found that for extraneous consideration by a subsequent State action or inaction favourable treatment has been given to some resulting in unfair treatment to others, the

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for the court may sometimes consider it necessary, for the purpose of providing justice, to interfere with the orders issued by the executives. A few such situations, without exhausting the list, could be as hereunder:

- (i) the PC omitted to consider the pay scales of some posts of any particular service, or
- (ii) the PC recommended certain scales based on no classification or irrational classification, or
- (iii) after recommendation of the PC was accepted by the Government, there is unjust treatment by subsequent arbitrary State Action or inaction. In other words, there were subsequent State actions/inactions resulting in favourable treatment to some and unfair treatment to others. (emphasis added)

9. The principle of equal pay for equal work can be enforced only if the persons making such claims satisfy the Court that not only the nature of work is identical but in all other respects they belong to same class and there is no valid reason to treat equals as unequals. Unless a clear cut case is made out and the Court/Tribunal is satisfied that the scale provided to group of persons on the basis of material produced before it amounts to discrimination without there being justification, court should not take upon the responsibility of fixing up pay scale, especially when different pay scales have been laid down by the PC. In other words, application of the doctrine would arise where employees are equal in every respect but they are denied equality in matters relating to the scale of pay. The burden is precisely upon the petitioners to establish that there is a case for

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equal pay for equal work. If any authority is required for this proposition, it is available in case of State of MP Vs. Pramod Bharatiya & Ors. (1993) 1 SCC 539 decided by the Hon'ble Supreme Court. The claim of the applicants herein have to be judged in the light of the law/rules and regulations aforementioned.

10. From the material placed before us, there is no escape from the conclusion that in some respects applicants' claim for equal pay for equal work has been acceded. Applicants also admit that "for a number of categories Railway scales are more favourable and in a few cases they are less favourable than the scale of pay in other departments". The categories for which applicants still continue to remain aggrieved have not been brought out in details by applying the law/criteria meant for consideration of such claims. We find that in respect of some categories, conditionality of minimum qualification and nature of duties are much higher and different but the applicants herein have not been able to establish that the responsibilities being discharged by them are identical to those of their counterparts in the Railways/Ministry of Defence in respect of both qualitative and quantitative aspect of the work/responsibility. Discrimination has to be established in respect of both.

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11. The fact that the responsibilities of the two groups of officials in different categories do differ is evident from the details available on record. In the additional submission made by the applicants subsequently on 18.12.97, applicants have attempted to bring out qualifications and experiences in respect of only Binders Gr.II but details in respect of other categories are not available. We find that all the erstwhile categories of Bindery staff have been upgraded through a suitable change in the scale of pay. In these circumstances, it is not correct to say that all the erstwhile categories have been brought down either in classification or by way of scale of pay. Under the scheme of rationalisation, Binder Grade II of GOI presses has been merged with the Bindery Assistant and both categories have been given the pay scale of Rs.950-1500. The corresponding pre-revised scale for this post was Rs.260-400 which was higher than the pay scale of Binder Gr.II

12. We find that so far Railway presses are concerned, those of bindery staff who were recruited through Railway Service Commission or with higher qualification have been provided with higher pay scale and such a step cannot be termed as discriminatory.

13. In the case decided by the apex court in State of Haryana Vs. Ram Chander JT 1997(5) 217 it has been held that "before a set of employees can claim parity of pay scales on the principle of equal pay

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for equal work it has to be shown by such claimants that both qualitatively and quantitatively the work which they do is of the same type and nature as that of their counterparts whose pay scales are pressed in service for getting the parity. Primarily, it requires, among others, evaluation of duties and responsibilities of the respective posts. That cannot be determined by relying upon averments in affidavits of interested parties.

14. In the present case, what to speak of establishing the plea on qualitative similarity in respect of responsibilities of all the categories of bindery staff, there is no whisper about the same even in the subsequent written submissions made by the applicants. Applicants have simply mentioned that in terms of education and overall responsibilities, bindery staff under the GOI presses have an edge over their counterparts in the Railways/Ministry of Defence but no documents or material have been placed before us to substantiate their claim. We do not have a picture of mode of recruitment/promotion for different categories of the two comparable cadres (see State of UP & ors. vs. Ministerial Karmachari Sangh, JT 1997(8) SC 415). Applicants have also not placed sufficient materials to show that they have been discriminated. Discrimination starts when equals are treated as unequal. Determination of equality is the foundation of all such claims and that determination suffers badly in the present case.

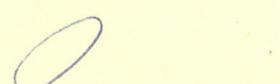
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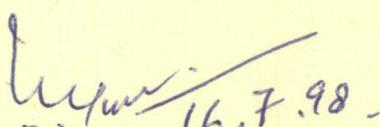
Applicants are aggrieved because of the respondents' order dated 27.5.92. Apparently this order has been issued after the recommendations of the Fourth Pay Commission and that too apparently on the basis of the report made available by the IDC/Ministry of Finance. If there had been any discrimination against them, it was open to the applicants to take up the matter with the Committee set up for purpose of settling anomalies.

15. It may also be emphasised that in the process of adjudication by Courts/Tribunals, an anomaly in different services could get created of which court may not be conscious in the absence of all relevant materials being placed before it. Till the claimants satisfy on materials produced that they have not been treated as equals within the parameters of Article 14, the Tribunals/Courts have to go slow in issuing direction to treat them equals particularly when the controlling executive authorities and experts have found them not to be equals.

16. For the reasons aforementioned, the application fails on merit and deserves to be dismissed. We do so accordingly, but in the facts and circumstances of the case, without any order as to costs.



(S.P. Biswas)
Member (A)



(T.N. Bhat)
Member (J)

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