

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 3001/92
T.A. No.

199

(5)

8-1-98

DATE OF DECISION

Sh. S.P. Sharma

Petitioner

Present in person

Advocate for the Petitioner(s)

Versus

UOI & Ors

Respondent

None for the respondents

Advocate for the Respondent

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The Hon'ble Shri S.R. Adige, Vice Chairman (A)

The Hon'ble Smt Lakshmi Swaminathan, Member (J)

1. To be referred to the Reporter or not? *Y*

2. Whether it needs to be circulated to other Benches of the Tribunal

Lakshmi Swaminathan
 (Smt. Lakshmi Swaminathan)
 Member (J)

Central Administrative Tribunal
Principal Bench

O.A. 3001/92

(b)

New Delhi this the 8 th day of January, 1998

Hon'ble Shri S.R. Adige, Vice Chairman (A).
Hon'ble Smt. Lakshmi Swaminathan, Member (J).

S.P. Sharma,
S/o late Shri A.L. Sharma,
R/o 903, Baba Kharak Singh Marg,
New Delhi. Applicant.

Applicant in person.

Versus

Union of India through

1. The Secretary,
Ministry of Home Affairs,
Government of India,
North Block,
New Delhi.
2. The Secretary,
Ministry of Personnel,
Public Grievances and Pensions,
Department of Personnel & Training,
North Block, New Delhi.
3. The Director Police Telecommunications,
Dte. of Coordination (Police Wireless),
Block No. 9, CGO Complex, Lodi Road,
New Delhi. Respondents.

None for the respondents.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member (J).

The applicant has impugned the respondents' memo dated 26.6.1992 rejecting his request for the revision of pay scales in accordance with the orders issued by them dated 31.7.1990.

2. The applicant has been heard and we have perused the records. The applicant who is working as Cipher Assistant, claims that he should be placed in the revised pay scale of Rs.1640-2900 instead of the scale given to him, i.e. Rs.1400-2600. He had filed an earlier O.A. 2787/91

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(A)

(Annexure 'A') which had been disposed of by the judgement dated 30.3.1992 (Annexure 'D'). The Tribunal had directed the respondents to consider the representation of the applicant dated 11.12.1990 afresh and to dispose it of by a speaking order taking into account the entire conspectus of the facts. In the impugned order and in the reply filed by the respondents, they have stated that the Assistants and Stenographers in Central Secretariat are Group 'B' Ministerial Staff whereas the Cipher Assistants in the Directorate of Coordination (Police Wireless) (DCPW) are Group 'C' Non-Ministerial operational staff. They have also stated that the mode of recruitment for both these categories differs; in the case of Assistants and Stenographers, there is an element of direct recruitment through competitive examination whereas in the case of DCPW the mode of recruitment is by promotion, failing by transfer on deputation and failing both by direct recruitment.

3. The applicant has submitted on the contrary that the Cipher Assistants in DCPW were earlier drawing a higher pay than the Assistants in the Central Secretariat Service. He has also submitted that the 3rd Pay Commission had brought the pay scale of Assistants of CSS Cadre and Cipher Assistants on par in the scale of Rs.210-425 with revised pay of Rs.425-800. Under the 4th Pay Commission, he states that his pay was fixed in the scale of Rs.1400-2600 as in the case of Assistants in the CSS cadre, but later on the scale of Assistants in CSS cadre was revised to Rs.1640-2900 retrospectively from 1.1.1986. He claims that similar revision being denied to him is arbitrary and illegal. He has also relied on the recommendations of the 5th Pay Commission (copy placed on record) in which he states that

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recommendation has been made that Cipher Assistants in Cipher stream in the Ministry of Finance should be given the higher pay scale of Rs.1640-2900 in place of their existing pay scale of Rs.1400-2600.

4. The Supreme Court in a catena of judgements have held that the fixation of pay scales for particular categories of employees is essentially a matter for expert bodies like ^{the} Pay Commission to consider and decide. (See **State of M.P. & Ors. Vs. Pramod Kumar Bhartiya & Ors.** (JT 1992 (5) SC 683), **State of West Bengal Vs. Harinarayan Bhowal** (1994(27) ATC 524), **State of Haryana & Ors. Vs. Ram Chander & Ors.** (JT 1995(5) SC 217) and **State of Tamil Nadu Vs. H.R. Alagappan** (JT 1997(4) SC 515). In another case **Union of India & Anr. Vs. P.V. Hariharan** (CA No. 7127/93), the Supreme Court has also held as follows:

"....Change of pay scale of a category has a cascading effect. Several other categories similarly situated, as well as those situated above and below, put forward their claims on the basis of such change. The Tribunal should realise that interfering with the prescribed pay scales is a serious matter. The Pay Commission which goes into the problem at great depth and happens to have a full picture before it, is the proper authority to decide upon this issue..."

5. In the present case, the applicant has not disputed that he belongs to Group 'C' Non-Ministerial post whereas the Assistants in the Central Secretariat, with whom he is claiming parity in pay scales, belong to Group 'B' Ministerial service. That apart, we also note that the mode of recruitment for both these categories differs. Therefore, having regard to the often repeated decisions of the Supreme Court in such matters and having regard to the facts of the case, we are unable to grant the reliefs prayed for by the

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applicant on the basis of the materials available on record. The respondents have given adequate reasons in the impugned memo for the rejection of the applicant's claim with which we find no good grounds to interfere as they are neither arbitrary nor unreasonable.

6. In the result, for the reasons given above, this application fails and is dismissed. No order as to costs.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member(J)

Adige

(S.R. Adige)
Vice Chairman(A)

'SRD'