

THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

O.A. No.1831/93 and O.A. No.1832/93

New Delhi, dated this 2nd September 1994.

HON'BLE MR. J.P. SHARMA, MEMBER (J)

HON'BLE MR. P.T. THIRUVENGADAM, MEMBER (A)

O.A. No.1831/93

1. Shri Daya Chand,
S/o Shri Sulhar Singh,
aged about 41 years,
r/o Village & P.O. Mundka,
Delhi.
2. Shri Krishan,
S/o Danraj Mal,
aged about 54 years,
r/o CA/42, Tagore Garden,
New Delhi.
3. Shri R.K. Yadav,
S/o Shri Chotey Lal,
aged about 44 years,
r/o Sector IV/6, R.K. Puram,
New Delhi.
4. Shri H.P. Verma,
S/o Lt. Shri R.K. Verma,
aged about 47 years,
r/o Sector VII/692, R.K. Puram,
New Delhi.
5. Smt. Anita Malhotra,
W/o Shri Bihari Lal Arora,
aged about 44 years,
r/o AB/163, Shalimar Bagh,
New Delhi.
6. Ms. B. Swaminathan,
D/o Lt. Shri V. Srinivasan,
aged about 41 years,
r/o 230-231, Satya Niketan,
New Delhi.
7. Smt. Kiran Bala Saxena,
Wife of Shri Sudhir Saxena,
aged about 33 years,
r/o C-10/197, Yamuna Vihar,
New Delhi-110018.
8. Shri Chandrika Ram,
S/o Shri Nagina Ram,
aged about 47 years,
r/o F-219, Nanak Pura,
New Delhi.
9. Shri Suresh Kr. Sharma,
S/o Shri L. . Gaur,
aged about 35 years,
r/o 1372, Najafgarh,
New Delhi-110058.

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10. Shri R jesh Sharma,
S/o Shri SL. Sharma,
aged about 32 years,
r/o C-3a/30A Janakpuri,
New Delhi-110058.
 11. Shri Vivek Hari Chaturvedi,
S/o Shri H.C. Chaturvedi,
aged about 34 years,
r/o C-42, Balram Nagar,
Loni, Ghaziabad.
 12. Shri Shishar Kumar,
S/o Shri K.N. Guar,
aged about 38 years,
r/o 309-A, Munirka,
New Delhi.
 13. Smt. Gurjinder Kaur,
W/o Shri Gurcharan Singh,
aged about 36 years,
r/o 566, Bhai Parmanand Colony,
Near Tagore Park,
New Delhi.
 14. Smt. Usha Sharma,
W/o Shri D.K. Sharma,
aged about 37 years,
r/o 63, Arjun Nagar,
New Delhi.
 15. Shri D. ...
S/o Shri ...
aged about 35 years,
A-35A, Ram Di. Enclave,
Uttam Nagar,
New Delhi.
 16. Shri D.B. Dutta,
S/o Shri M.R. Dutta,
aged about 56 years,
r/o Sec. 111/1934, R.K. Puram,
New Delhi.
 17. Shri B.M. Sahu,
S/o Lt. Shri Hari Singh,
aged about 45 years,
r/o A-26, Laxman Park,
Gali No.3 (East Chander Nagar),
Delhi.
 18. Smt. Baljeet Chander,
W/o Shri Mohinder Singh,
aged about 43 years,
r/o B-508, Tilak Vihar,
New Delhi-110018.
 19. Shri Mahendra Singh,
S/o Shri Bidhu Mal,
aged about 36 years,
r/o C-38/1, Gali No.3,
New Govindpure, Krishan Nagar,
Delhi-110051.

... Applicants.

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1. Shri B.K. Sharma,
S/o Shri A.R. Sharma,
aged about 52 years,
r/o X-612, Sarojini Nagar,
New Delhi.
 2. Smt. Sushila Satija,
W/o Shri B.D. Satija,
aged about 53 years,
r/o B-108, Amar Colony,
Lajpat Nagar,
New Delhi-110024.
 3. Shri H.N. Pandey,
S/o Kapil Dave Pandey,
aged about 48 years,
r/o A-148, Kidwai Nagar East,
New Delhi.
 4. Shri Pyare Lal,
S/o Shri Buddha Ram,
aged about 39 years,
r/o C-70, Jawahar Park,
Devli Road,
New Delhi-110032.
 5. Shri Jai Gopal,
S/o Shri Charan Singh,
aged about 39 years,
r/o 56, Humayan Pur,
P.O. Safdarjung, New Delhi,
New Delhi-110029.
 6. Shri R.N. Verma,
S/o Shri D.R. Verma,
aged about 43 years,
r/o 5886, Jogiware,
Nai Sarak,
Delhi-110006.

... Applicants.

By Advocate: Shri M.K. Gupta for above applicants.

Versus

1. Union of India,
through
The Secretary,
Ministry of Home Affairs,
North Block,
New Delhi-110001.
2. The Registrar General of India,
Ministry of Home Affairs,
2/A, Man Singh Road,
New Delhi-110011.
3. The Secretary,
Ministry of Finance,
Department of Expenditure,
North Block,
New Delhi-110001.

... Respondents.

By Advocate: Shri N.S. Mehta counsel for the Respondents.

MR. J.P. SHARMA, MEMBER(J)

Both cases involve the same question and facts of law and are also represented by the same counsel on either side. In view of this, a common judgement is given which will govern both the cases of OA 1831/93 and OA 1832/93. OA No.1831/93 is the leading case.

2. Shri M.K. Gupta appeared for the applicant. None for the respondent. The grievance of the applicant in both the OA is that they have given replacement scale recommended by IVth Pay Commission of their pre-revised scale of 425-700, & 1400-2300 of the Junior Supervisor and for the Senior Supervisor, who are the applicants in OA 1832/93 from 550-900 to 1640-2900. The IVth Pay Commission while making this recommendation has also observed as follows in para 11.45 of the report:

"We are of the view that the Department of Electronics should examine the matter and suggest reorganisation of the existing posts and prescribe uniform pay scales and designations in consultation with the Department of Personnel. Until then the pay scale and special pays recommended by us in chapters 1 and 24 will apply to these posts"

3. From the above it shows that the IVth Pay Commission has in its mind that there should be a regular body constituted for the cadre development of staff engaged in EDP work. It was because of the rapid development of computerisation in administration and observing further the existing employees should be manned and exposed to this discipline getting more aptitude for new technology of work. The Government of India therefore, issued OM 1989 on this subject for rationalisation of pay scales of EDP posts (Annexure A-2). The designation of posts, pay scale and certain remarks regarding the incumbent of the holder of the post has been given. The said OM being relevant to this case is quoted in its full text. (Page 35, 36 and 37 of the OA)

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4. The grievances of the applicants in both the ^{cases of} Junior and Senior Supervisor is that in the other Ministries/Departments of the Government of India, the aforesaid OM has been projected in the pay scale after sorting out formalities laid down in aforesaid OM. But as regards the office of the applicant i.e. RGI is concerned, inspite of repeated representation and also assurance given by the learned counsel representing the respondent, nothing has taken place towards revision of pay scales of the applicants in both the OA. By the order dated 14.2. 1994, the learned counsel for the respondent Shri N.S. Mehta has undertaken to apprise the Tribunal regarding latest development with regard to consideration of the revision of pay scale of the applicants. Since then number of adjournment has been granted and nothing has been revealed and nor any fact has been brought out on record that there has been an active application of mind departmentally on the grievances assailed in the present application by the Junior and Senior Supervisors. Shri N.S. Mehta is not present today. We cannot defer the decision of this case any more.

5. We have gone through the pleadings and records of the parties and also taken note of the fact that Vth Pay Commission has since been constituted and that it has started functioning and it is almost in the mid-way inviting suggestions from various departments, unions and other connected functionaries of the Central Government Employees. It is a fact that the Court/Tribunal should not tinker with the function ordinarily assigned to expert bodies, who have to take into account the present scale in different organisations of Union of India. Hon'ble Supreme Court in number of cases has observed that primarily it is the function of the administration to deal with the equation of pay with the post and in the event when the scales are

uneven or similarly situated employees having the same channel of recruitment rules^{are} almost same and a identical and discharging the same and similar duties and responsibilities must be treated at par. In this case too since the ~~xxx~~ respondents are not considering the matter and they are not taking any final decision, which is expected of them to arrive at the decision at the earliest. The Head of the office of the respondent also can make a representation or get the representation of the applicant forwarded to the Pay Commission.

6. We are not oblivious of the fact that OM of 1989 referred to above has already given benefit to number of employees alleged to be similarly situated as the applicant and even the recommendation of the 5th pay commission, the applicant shall be granted the relief of revision of scales that will be prospective and in that event they will be put to disadvantageous position and monetary loss

7. We have also gone through the facts placed before us regarding recruitment rules, pre-revised pay scales, replacement scales and the scales laid down in the OM of 1989 referred to above. We find that there is certain anomalies in the grant of extant pay scale to the applicant for the post of Junior and Senior Supervisors, who are discharging the functions of EDP in RGI. We do not go into further details and dispose of the original application with the following directions:

- 1) The respondents are directed to consider the case of the applicants regarding equation of pay in compliance ^{with the} order in accordance with OM ~~is~~ dated 11.9.89 and if they are found eligible because of entry to the service, similarity of the recruitment rules, duties and responsibilities and functions discharged by them is same and has been given the benefits by other Ministries/organisations of

Union of India where the aforesaid OM has been 14
applied with certain modifications, may be granted
the same benefits.

2)

The respondents are directed to comply this process
expeditiously and it shall be in the fitness of things
before the recommendation of the 5th pay commission
are received, forwarded the same also to the 5th
pay commission, if the necessity arises. The applicant
may also be considered for getting the benefit in that
in other organisations/ministries of the Government of
India has been given that benefit of pay scales.

The application is, therefore, disposed of accordingly.

A copy of the order be placed in OA No.1832/93

(P.T. THIRUVENGADAM)
MEMBER (A)

(J.P. SHARMA)
MEMBER (C)

PUP

AHested

KLSharma
2/9/94
CO/C IV