

CENTRAL ADMINISTRATIVE TRIBUNAL:PRINCIPAL BENCH.

O.A. NO. 2517/93

New Delhi this the 19th day of May, 1995. (13)

Hon'ble Shri N.V. Krishnan, Vice Chairman(A).

Hon'ble Dr. A. Vedavalli, Member(J).

1. Shri G.S. Tiwari,
S/o late Shri S.L. Tiwari,
R/o D-142, Sarojini Nagar,
New Delhi.
2. Shri D.B. Mehra,
S/o Late Shri G.R. Mehra,
R/o H. No. 1501, Sector-16,
Faridabad.
3. Shri A.R. Verma,
S/o late Shri Raja Ram,
R/o 532, H/2170 Pande Tole,
Aliganj,
Lucknow.
4. Shri Ved Pal Verma,
S/o Shri M.L. Verma.
5. Shri K.R. Mahajan,
S/o Shri R.N. Mahajan,
6. Shri D.P. Guha,
S/o Shri S.P. Guha.
7. Shri K.D. Singh,
S/o Shri K.M. Singh,
R/o 501, Purana Pawal,
Bombay-76.
8. Shri Som Nath Mitra,
S/o late Shri Ram Chandra Mitra,
R/o 5/3, Benimitra Lane,
Shivpur,
Howrah-2.
9. Harish Chandra Verma,
S/o Shri Nawarilal Verma.
10. Mrs Shashi Prabha Mathur,
W/o Shri Virish Chandra,
R/o F-209, Pragati Vihar,
New Delhi.
11. Shri A. Kumar,
S/o late Shri Dhara Das,
R/o B-85, New Rajinder Nagar,
New Delhi.
12. Shri S.K. Sharma,
S/o late Shri K.L. Sharma,
R/o B-III/GA, Sector-34,
Noida.

.. Respondents.

By Advocate Shri Gyan Prakash.

Versus

1. Union of India through
Secretary,
Ministry of Food Processing Industries,
Panchsheel Bhawan, Khel Gaon Marg,
New Delhi.
2. Secretary,
Department of Expenditure,
Ministry of Finance,
North Block,
New Delhi.
3. Agricultural Marketing Advisor,
Directorate of Marketing and Inspection,
Department of Rural Development,
Government of India,
Faridabad.
4. The Secretary,
Department of Food,
Krishi Bhawan,
New Delhi.

By Advocate Shri O.P. Kshatriya, proxy for
Shri N.S. Mehta. ...Respondents.

ORDER (ORAL)

Hon'ble Shri N.V. Krishnan.

The grievance of the applicants concerns the pay scale given w.e.f. 1.1.1986 on the recommendations of the 4th Pay Commission. There is an anomaly between the pay scale applicable to the Junior Inspecting Officer and the Assistant Marketing Officer. Both were in the same pay scale of Rs.550-900 before 1.1.1986. After 1.1.1986, the Assistant Marketing Officer is given the pay scale of Rs.2000-3500 whereas the Junior Inspecting Officers are in the pay scale of Rs.1640-2900. Representations have been made. The applicant, G.S Tiwari, was asked to send a copy of the relevant rules on 18.7.1988 (Annexure A-6) to examine the matter. This was sent immediately thereafter (Annexure A-8). Nothing has been done thereafter. Hence, this O.A. for a direction to the respondents to examine the request of the applicants as promised in the earlier Annexure A-6 and give them the necessary reliefs.

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2. The respondents have filed a reply. It is contended that the O.A. is barred by limitation to condone which an M.A. has been filed. In reply to para 4.8 to 4.12 they have stated as follows:

"The representations of the applicants referred in this para stated to have been made to the Department of Food, cannot be verified by this Ministry as the file on the subject is not traceable in the Ministry of Human Resources Development. We made efforts to deal with the representations of the applicants received in this Ministry but in the absence of Deptt. of Food's main file, the final decision has not been taken. However, the Ministry is taking up the matter with the Fifth Pay Commission. As per the records available, one thing is certain that before the implementation of recommendations of the Fourth Pay Commission, the applicants, i.e., Junior Inspecting officers as well as Assistant Marketing Officers were in the same pay scale, i.e. Rs.550-900. However, after Fourth Pay Commission's recommendations, the two have been placed in different pay scales. There is an anomaly in the pay scales of Junior Inspecting Officer (F&VP) and Assistant Marketing Officers. In fact, keeping all such anomalies in view, Government of India has already set up Fifth Pay Commission to look into such grievances of Government employees. In this connection, a copy of the letter from Member Secretary to all Secretaries is enclosed at Annexure R-III. Moreover, the Ministry is also taking up the issue with the Fifth Pay Commission.

(Emphasis added)

3. We have heard the parties.
4. Prima facie, the O.A. is barred by limitation which starts from the Annexure A-6 reply dated 18.7.88. As the respondents admit that an anomaly exists and that they intend to take some action, we condone the delay.

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5. The learned counsel for the applicants states with reference to the resolution dated 9.4.1994 appointing the Fifth Pay Commission that this Commission would have jurisdiction only to consider the present pay structure and make recommendations thereon prospectively. In other words, as the grievance of the present applicants is with reference to the pay scale given from 1.1.1986, the Fifth Pay Commission does not have jurisdiction to make a recommendation with regard to the applicant's grievances from 1.1.1986. He, therefore, requests that the respondents be directed to consider the representations made earlier and give a decision within limited period, particularly because some applicants have already retired.

6. The learned proxy counsel Shri O.P. Kshatriya seeks time which is not granted.

7. In our view, as the Fifth Pay Commission has already been appointed, it would stand to reason that Government would not be in position to take any decision in the matter of revision of pay scales, particularly when parity is claimed between two categories of employees in respect of work, qualification etc. to justify the claim for equal pay. The respondents have stated that the Ministry is also taking up the issue with the Fifth Pay Commission. It is not for us to give any finding as ~~is~~ the jurisdiction of the Pay Commission to consider the matter, if it is referred to it by the parties. We are, therefore, of the view that this matter may be left for the consideration of the Fifth Pay Commission.

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8. Accordingly, we dispose of this O.A. with the observation that the applicants may file their representations to the Fifth Pay Commission in this regard and a direction to the respondents to refer this grievance of the applicants relating to the anomaly in the pay scales from 1.1.1986 to the Fifth Pay Commission and take appropriate decision on the recommendations, if any, that may be made by the Pay Commission on this issue. We make it clear that in case the applicants have a grievance in this regard even thereafter, it is open to them to seek such relief, as may be advised.

A. Vedavalli

(DR. A. VEDAVALLI)
MEMBER(J)

N.V. Krishnan
19.5.95

(N.V. KRISHNAN)
VICE CHAIRMAN(A)

'SRD'