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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

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O.A. No. 652/87

Y.S. Negi and others

Applicant

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. A.B. Gorthi, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicants who are working as Computers under the President, Forest Research Institute and Colleges, Dehradun, which has now become a Corporation. The applicants 1 to 7 have been working as Computers for the last 16 years, while the applicants 8 to 15 have been working for the last more than 4-5 years, have approached the Tribunal praying that the respondents be directed to treat them at par with the Research Assistants grade II at the Forest Research Institute and Colleges, Dehradun and they may be directed to give the same pay scale as ^{is given} to the Research Assistants grade II with effect from 1.1.1973. Further a direction has also been prayed for promoting them to the posts of Research Assistants Grade I after preparing a common seniority and for sanction of revised pay scale of Rs 1400-2300.

2. In the Forest Research Institute and Colleges, there are various types of posts and most of them

are engaged in research work. One of ~~the~~ such posts & is Research Assistant grade II which has been existing in the Institute from the very inception and has been classified in Class III Non-gazetted. There was no post of Computer before 1956 but in view of the & developments and advancement of the Institute, Govt. of India issued a letter on 6.4.53 for refixation of strength of various grades of establishment at the Forest Research Institute and Colleges, Dehradun. Another letter was sent by the Government of India on 3.2.⁵⁶~~86~~ that out of total 40 posts, 16 should be re-designated as Computer in the pay scale of Rs 80-220. In pursuance of it it was done, ^{but} that prior to the re-designation of 16 posts of Research Assistants grade II, the posts of Computers, Research Assistants, Laboratory Assistants etc. were included in the same. The applicants claim relief, placing reliance on the admission which was made by the respondents in a writ petition which was filed by the Research Assistants and Computers in the year 1969 (Civil writ petition No; 81 of 1969) and in which it was admitted that in the Forest Research Institute and Colleges, Research Assistants have been classified in Class III of the Non-gazetted Technical Posts. There are two grades in the post of Research Assistants. Among the posts of Research Assistants, grade II, are included Computers, Research Assistants, Laboratory Assistants etc. Among the posts of Research Assistant Grade I are included Head-Computers, Lower Assistants, Forest Rangers etc.

Further it was admitted by the Under Secretary to the Govt. of India "I admit that in the Forest Research Institute and College, Research Assistants have been classified in Class III of the Non-gazetted Technical Posts. I also admit that there are two grades for the posts of Research Assistants as indicated in para 4 of the writ petition."

3. The basic qualification for appointment for the post of Research Assistant Grade II was B.Sc. and some of the persons working on that posts were promotees and such promotees were only Intermediate. 16 persons who were re-designated, also possessed the same qualification and the pay scale of Research Assistant and that of Computers remains unchanged and there was only one Seniority list of Research Assistants and Computers and both these categories were treated at par in the matter of promotion, to the higher grade of Research Assistant grade I. The Second Pay Commission its report which was implemented, observed that in their view the Science Graduates employed to assist in scientific work should have somewhat better remuneration and accordingly ^{they} ~~we~~ ^{had} recommend for these a scale of Rs 150-5-160-8-240-EB-8-280-10-300. According to the applicants Computers were also entitled to the scale of Rs 150-300 as this was the scale which was admitted for Science Graduates doing the scientific

work but the Ministry did not sanction this scale to the Research Assistants grade II. They made joint representation which was later on accepted and they were directed that the same scale of Rs 150-300 will be granted to them ^{w.e.f. June 1962} ~~but~~ instead of granting it with effect from ~~June 1962~~ instead of 1.7.59. Feeling dissatisfied with the same they again made representation. In the writ petition No. 81 of 1969 x referred to above, it was directed by the Supreme Court that since the petitioners are also in the same category, as such the petitioners will be entitled for the revised pay scale from 1.7.59 (Purshottan Lal and others v. Union of India, A.I.R. 1973, page 1088). ^{Computers} Feeling aggrieved with this, the ~~Research Assistants~~ as they were not being treated at par with the Research Assistants Grade II by the Government of India, filed a writ petition before the Supreme Court but it was dismissed with the observation that they were at liberty to approach the forum available to them. Thereafter, the petitioners filed various representations and the departmental counsel for Forest Research Institute, Dehradun also made recommendations that they may be given promotion. The recommendations were not accepted even upto the year 1983. Again

the recommendations were made by the Registrar of the Institute on 22.2.84 in their favour but no heed, it appears, was paid to the same.

4. The Fourth Pay Commission in its report which was submitted in June, 85 dealt with different department/separately but the existing pay scales were divided in various groups. Regarding Ministerial posts, which were in the pay scale of Rs 330-560, it was stated that/the major category posts covered in this pay scale were Upper Division Clerks, Senior Clerks, Accountants, Junior Auditors and Auditors in various departments. The Pay commission recommended the pay scales of Rs 1200-2040 covered by the scale of Rs 330-560, 330-480 covered the lower level of highly skilled workshop/artisan staff by promotion from the scale of Rs 260-400, and in some of the posts like Junior Intelligence Officer grade I and technician in all India Radio and appointment to these posts was also made by promotion ^{from} ~~to~~ the scale of Rs 260-350 or Rs 160-400 apart from direct recruitment. Thus, the Fourth Pay Commission did not make special mention regarding Ministry of Environment and Forests. The Fourth Pay Commission which included the Forest Research

Institute and Colleges also the posts of Research Assistants grade II and posts of Computers were not considered by it specifically though consideration to other posts was made. In view of grouping of the scales, some anomaly arose and the matter was referred to a High Power Committee by the Government. Before this Committee, Computers also filed representations and through an association also made representation highlighting the grievances of the applicants i.e. computers.

5. The High Powered Committee submitted its report to the 4th Pay Commission, ^{and the} Government of India accepting it, divided various pay scales in various groups and the pay scale of the applicants/computers were also revised and the new pay scale of Rs 1200-2040 was given to them.

5. The applicants' grievance is that the Third Pay Commission recommended the pay scale of Rs 425-700 to the persons engaged in scientific research work and although the Government of India accepted the scale for all such employees but discriminated Forest Research Institute and Colleges, even though the basic qualification for the scientific and research work was Degree in Science, Economics,

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Mathematics, Statistics and the applicants were also doing the scientific and research work. The applicants have pointed out ^{that} computers in other departments are not engaged for scientific work and there ~~is no~~ ^{is} prescribed qualification is only the High School and Intermediate and not B.Sc. or B.Sc with Mathematics but the pay scale of computers was revised and not of Scientific research groups. The applicant's complaint is also that the Government of India arbitrarily and discriminately distinguished the Computers from Research Assistant Grade II and fixed a different scale despite the fact that no such distinction was drawn by the Third Pay Commission.

6. The respondents have stated that the post of Computers existed prior to the issue of letter dated 6.4.2953 by the government of India refixing the staff strength of different categories in Forest Research Institute and Colleges. The posts of Research Assistant Gr. II and Computers were in the scale of Rs 80-220. Computers with specific additional qualifications were entitled for a higher starting pay of Rs 100/- . In the sanction issued on 5.4.1953 the number of posts of Research Assistant grade II was fixed at 40. Since the cadre of computers and Research Assistant grade II was separate the Government of India issued orders on 3.2.1956 that out of the 40 permanent posts of Research Assistant grade II 16 posts should be re-designated as computers. It has also been stated that

letter dated 25.9.1943 will show that Technical staff in one branch would be considered by the President, Forest Research Institute and Colleges for promotion to post of similar work in another Branch. The respondents have denied that they had a common seniority to the next higher grade of Research Assistant grade I. Regarding the appointment of Research Assistant grade I it has been stated that initially the computers ~~mentioned that~~ were appointed as Research Assistant Grade I on adhoc basis and subsequently the appointments were regularised. Later on the computers were not considered for promotion to Research Assistant Grade I (General) as they were not eligible for the same. However, they are in the line of promotion to the post of Research Asstt. Grade I (Head Computers). The respondents have also stated that Sri M.S. Rawat, Computer was promoted as Research Assistant Grade I (stat) and not Research Assistant grade I (general). Regarding the ^{admission} ~~appointment~~ made in the counter, the respondents have stated that the same would not apply as it was in the context of statement made by the Petitioners in the writ petition No. 81 of 1969 decided on 21.2.1973. This counter affidavit has, therefore, no meaning beyond that reference.

7. Regarding Pay Commission report it has been stated that the computers belong to the Statistical side which have been dealt with within chapter 17 of the Pay Commission's report and such a reference to chapter 21 which deals with

a specific category of posts at F.R.I. is irrelevant. A reference to para 32 has also been made by the respondents. In the said paragraph it has been stated by the Pay Commission that the post in the pay scale of Rs 150-10-290-15-380 is in vogue in the Ministry of Irrigation and Power and for one post in the Ministry of Transport and Shipping as also the solitary post of Head Computer^{whv}~~ist~~ under 3 the Ministry of Defence. The computer^ts of F.R.I. and Colleges do not fall under this category and as such they have not been dealt with in this para. Similarly the Commission in para 34 of the same chapter have specifically dealt with ~~wit~~ the posts in pre-revised scale of Rs 110-180 and Rs 110-200/250 and Rs 110-139. The commission in this para have not mentioned the line of promotion of this category staff. The computers at this Institute were in the scale of Rs 150-300 and these posts are included in 2,239 posts in the pay scale of 150-300. The commission have also not mentioned that the pay scale of Rs 330-560 be allowed to persons designated as Computer in certain Ministries of the Government of India whose duties were ~~sim~~ similar to those of Upper Division Clerks. According to the respondents, the post~~s~~ at the F.R.I. and colleges was dealt with by the Commission vide paragraphs 61 and 67 of Chapter 21 of its report. Since the post of computer did not have any special features the same were not dealt with in these paragraphs but the posts of Research Assistant Grade II were dealt with in detail.

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The respondents have also stated that there is disparity in the Educational qualifications for the post of computers and Research Assistants grade II. The qualification for the post of computers is second class Bachelors Degree in Maths (with Statistics as one of the subjects) or Statistics. Regarding the computers of other departments it has been stated that the computers of those departments are having matriculation qualification and they are paid the scale of Rs 110-180 and a few on the slightly higher scale of Rs 110-225, whereas the computers engaged in F.R.I. and having second class Bachelor's Degree in Maths are placed in the pay scale of 330-560. Thus, the respondents have tried to explain that there is disparity from the point of educational qualification and pay scale between the Research grade II Assistants/and Computers and their case is different and they have tried to explain that the two are different cadres.

8. The applicants have refuted the pleas of the respondents and have pointed out that the Third Pay Commission granted the same pay scale for computers and to the Research Assistant grade II; and the computers of the F.R.I, Dehradun were the same and their cadre is one and the nature of duties of computers as well as Research Assistants are the same. The computers of F.R.I. are not in the same pay scale in the other departments and they are not highly qualified persons like the applicants. Their nature of duties have also been stated by the applicants.

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9. The duties and responsibilities of the computers is to carry out research work in their respective fields; to collect, compile, analyse and interpret field and laboratory experimental research data (using statistical methods wherever necessary); to assist Senior Officers (namely Research Assistants Grade I, Research Officers and Scientists-SC etc.) in the publication of Research and Technical papers. The duties of Research Assistants Grade are to carry out research work in their respective fields under the guidance of their superior officers; collecting, analysing and interpreting the research data; to assist in compilation and preparation of Technical and Research papers. A letter was also written by the Registrar of the F.R.I. to the Pay Commission wherein it was stated by him that the computers are also doing the research work. The applicants have again stated that their cadre i.e. of Research Assistant grade II and computers are the same and their seniority list is the same.

10. The facts stated above make it clear in the light of the admission also made by the respondents before the Supreme Court in their affidavit which they have tried to explain by saying that it was a reference to that case indicates that the Research Assistants and Computers were the members of the same cadre and the seniority list was also the same and they were also doing

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the research work and also promoted to the higher grade. Undoubtedly, some of the duties are rather equal or there may be some difference but overall it may even tend to show that there is not much difference between the duties, there may be some difference in their functions but they are related to the research work. The plea raised by the applicants gets support from the admission by the respondents before the Supreme Court and it may not be said that the government ^{makes} ~~made a~~ _{by} different admissions in different cases and there is no fixity in the pleas taken by the government in various cases, may be on the same point. It appears that the case of the applicants was not considered by the Fourth Commission and that is why the government has also not considered it. The Research Assistant or Computers cannot be put on the same par as Upper Division Clerks and duties and responsibilities vary altogether, as such this application deserves to be allowed in part. 11.

11. Before passing the final order we will refer to the objections which were raised on behalf of respondents that the applicants are no longer employees of the Government of India and they have now become the employees of the Institute and the applications deserves to be dismissed. There is no denial of the fact that ~~father~~ after conversion of the Institute as Corporation, government

the government servants are still on deputation in it and they continue to be the government servants and they are claiming the pay scale equal to those government servants. As such the objection was preliminary in nature deserves

to be dismissed. It may be noticed that transferred employees are entitled to appropriate pay scale in new unit which may be even more (see P. N. Subramaniam Reddy vs AP State Road Transport Corporation and others (1992) 1 S.C.C. 63)

12. Accordingly, in view of the what has been stated above, the respondents are directed to consider the case of the applicants treating that ~~they are~~ the Research Assistants grade II and computers are members of the same cadre and their duties and functions are equal substantially. It is for the government to consider their pleas itself or to set up an Experts Committee for looking into the matter and, ~~it~~ comes to the conclusion that they are to be placed in the same scale/cadre or the scale to which they are entitled. This matter be decided within a period of 4 months from the date of communication of this order. No order as to costs.

Amr Singh
A.M.

V.C.
V.C.

Shakeel/

Allahabad Dated: 3.2.92