

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT NAINITAL, U.A

NAINITAL THIS THE 22nd DAY OF APRIL, 2003

ORIGINAL APPLICATION NUMBER:- 14 OF 2003

HON. MAJ GEN K K SIRVASTAVA, MEMBER (A)
HON. MRS MEERA CHHIBBER, MEMBER (J)

Nazar Singh,
s/o Late Shri Swaran Singh,
r/o Quarter no. T-II-6
G.B.O. Compound Dehradun.

...Applicant.

Counsel for the applicant:- Shri Ajay Rajendra

V E R S U S

1. Union of India,
through Secretary
Ministry of Science and Technology,
Technology Bhawan,
New Mehrauli Road,
New Delhi-110016.
2. The Chairman,
Departmental Anomaly Committee,
Department of Science and Technology,
Technology Bhawan,
New Mehrauli Road,
New Delhi.
3. The Surveyour General of India,
Survey of India,
Hathibarkala,
Dehradun.

...Respondents.

Counsel for the respondents:- Shri G.R.Gupta

O R D E R

HON. MRS. MEERA CHHIBBER, MEMBER(J)


By this O.A applicant has sought the following
reliefs:-

- (i) to issue a suitable order to set aside the impugned letter/order dated 15-1-2003 passed by the respondents no. 3 and also the report of the anomaly committee. (Annexure 1 to the compilation no. 1).
- (ii) to direct the respondents to remove anomaly in pay scale of Security Supervisor at Survey of India in V CPC and to give pay scale of Rs. 5500-9000 or 6500-10500 as per para 70.106 and 63.237 of V CPC to the applicant.
- (iii) to issue any other order or direction to the respondents to which this Court may deem fit in in the interest of justice.

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(iv) to award cost of the original application."

2. This is second round of litigation by the applicant as the applicant had filed initially O.A No. 55/01 which was decided by the Tribunal vide its order dated 10.01.2002 whereby a direction was given to the respondents to decide the representation of the applicant by passing speaking order within three months from the date a copy of this order is received. Since it was submitted by the applicant's counsel that the issue has to be decided by the Chairman, Departmental Anomaly Committee, Department of Science and Technology, New Delhi, respondent No.2 was directed to take appropriate action for getting the same decided from the appropriate authority (Annexure-6). Pursuant to the direction given by the Tribunal the matter ^{is now} placed before the anomaly committee who after taking the various points raised by the applicant came to the conclusion that the position of Secretariat Security Force (SSF) and Central Industrial Security Force (CISF) personnel cannot be compared with that of Security Supervisors in Survey of India (S.O.I) as such no relativity could be drawn between them. It was also held by the Anomaly Committee that the recommendation was made by the 5th Central Pay Commission for giving higher pay scale to various categories keeping in view the various parameters like handling of administrative and accounting work in the field units and also keeping in view the different duties and responsibilities to be shown by the different categories. Accordingly vide order dated 15.01.2003 applicant was informed that he can not be given higher pay scale. Copy of the report & order was also enclosed alongwith the said letter which contains reasons as to why applicant can not be given the higher pay scale (Annexure-1). It is this order which has been challenged by the applicant in the present O.A.



3. It is submitted by the applicant's counsel that this order is absolutely arbitrary, illegal and discriminatory, therefore, is liable to be quashed. He has submitted that the duties and responsibilities of Security Supervisor are same as that of S.Ss working with Secretariat Security, therefore, he is entitled to ^{be} given scale of Rs. 6500-10500/- whereas he has been given only 4500-7000/- which is comparatively much lower. He has also compared himself with the Reception Organization in Central Secretariat and Rastriya Indian Military College which is a non-ministerial, civil and non combatant post similar to Security staff in Survey of India and even they have been given scale of Rs. 5500-9000, therefore, in alternative he has submitted that atleast he ought to have been given the scale of Rs. 5500-9000. He has further submitted that there are ^{no} promotional avenue for the Security Supervisor working with Survey of India whereas Security Supervisors working with Secretariat security are promoted to the post of Chief Supervisor. Therefore, according to him, the impugned orders are bad in law and may be quashed.

4. We have heard counsel for the applicant and perused the pleadings as well.

5. Before dealing with the present case in hand it would be necessary to quote few judgments given by Hon'ble Supreme Court on question of pay scales. In A.I.R 1989 SC 19 State of U.P and others Vs. J.P. Chaurasia and others Hon'ble Supreme Court had held " It is for the administration to decide the question whether two posts which very often may appear to be the same or similar should carry equal pay, the answer to

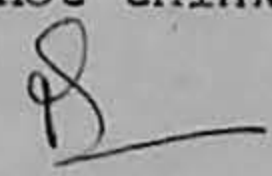


(4)

which depends upon several factors namely, evaluation of duties and responsibilities, ^{& gr} should be left to the expert bodies like the Pay Commission. The court should accept the recommendation of Pay Commission." Similarly in 1994 Vol.27 ATC 524 in the case West Bengal and Ors. Vs. Harinarayan Bhowal Hon'ble Supreme Court had held " It is for the expert bodies like Pay Commission to look into pay scales, it is not for the courts to fix pay scales." In 1997 SCC (L&S) 838 in the case of U.O.I and Another Vs. P.V. Hariharan and Anr. Hon' Supreme Court had held as follows :-

"Quit often the Administrative Tribunals are interfering with pay scales without proper reasons and without being conscious of the fact that fixation of pay is not their function. It is the function of the Government which normally acts on the recommendations of a Pay Commission. 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."

6. Keeping the above observation in mind, we have to see whether we can interfere in the present case at all in the given circumstances when on the direction given by the Tribunal already, the matter has been placed before the anomaly committee as averred by the applicant's counsel him-self and who after examining each ^{aspect} ~~element~~ of the matter have come to the conclusion that ~~since~~ Security Supervisors in the office of Survey of India and that of Secretariate Security Forces are not comparable, ⁱⁿ as much as the duties of both the departments are different. Once the matter has been placed before the duly constituted anomaly committee for consideration, we do not think that we can interfere




(5)

in this kind of matter, Since these are the matters which ^{to be} are ~~the~~ decided by the expert bodies namely Pay Commission and the anomaly committee who have already looked into the matter and not recommended the higher pay scale for the post that applicant is holding. Further ^{if B} a higher pay scale is recommended by the 5th Central Pay Commission for the different departments, this does not give right to the applicant to claim the same pay-scale automatically nor is it open to suggest that he has been discriminated against because the basic principle for discrimination is that both the persons ^{should be in} ~~are~~ ^{Badesthal B} the same ~~department~~ ^{B aganish B} against which applicant is claiming to have been discriminated ~~on the same scales~~ whereas in the instant case, the expert bodies have specifically stated that they are not performing the same ^{B and belong to different departments B} duties and responsibilities, therefore, applicant's arguments that the impugned order is arbitrary, illegal and discriminatory has to be rejected.

7. In view of the above discussion we find no merit in the O.A and the same is accordingly dismissed at the admission stage itself.

8. There will be no order as to costs.


Member- J.


Member- A.

/Anand/