

III (6)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

ORIGINAL APPLICATION NO. 116 OF 1987.

Date of decision ... February 17 , 1988.

1. Keshab Ch. Pattnaik, s/o-late Ananda Charan Pattnaik.
 2. Tarakanta Bisoi, s/o-late Gunanidhi Bisoi.
 3. Rabindranath Pattnaik, s/o- Rabindranath Pattnaik.
 4. Jagannath Samal, s/o-late Brahmananda Samal.
 5. Sisir Kumar Mohapatra s/o- K.Ch. Mohapatra.
 6. P.A. Sivaji s/o- late T.P.S. Nambiar.
 7. Braja Kishore Das s/o- late N.K. Das.
 8. Lalit Kumar Singh s/o- Ganesh Prasad Singh.
 9. Fanindranath Nayak s/o- Rama Ch. Nayak.
 10. Nakul Ch. Beura s/o- late Rahasa Narendra.
 11. Bharat Ch. Sahu s/o- Lokanath Sahu.
 12. Sri Panu Sethi s/o- Gajendra Sethi.
 13. Sri F.C. Swain s/o- Bhagabat Swain.
- All are now working as Assistants, Aviation Research Centre, Charbatia, P.S. Choudwar, Dist- Cuttack.

.... Applicants.

Versus

1. Union of India, represented by the Secretary to the Govt. of India, Ministry of Finance, Department of Expenditure, New Delhi.
2. Cabinet Secretary, Department of Cabinet Affairs, Govt. of India, Cabinet Secretariat, Bikaner House Annexe, Shahjahan Road, New Delhi.
3. Director, Aviation Research Centre, Directorate General of Security, Cabinet Secretariat, Block V (East), R.K. Puram, New Delhi- 110 066.
4. Deputy Director (Admn.), Aviation Research Centre, Charbatia- 754 028, Dist- Cuttack.

.... Respondents.

M/s R.Ch. Mohanty & R.K. Mohanty, Advocates .. For Applicant.
Mr. A.B. Misra, Sr. Standing Counsel (Central).. For Respondents.

C O R A M :

THE HON'BLE MR. B.R. PATEL, VICE CHAIRMAN
AND
THE HON'BLE MR. K.P. ACHARYA, MEMBER (JUDICIAL)

1. Whether reporters of local papers have been permitted to see the judgment ? Yes .
2. To be referred to the Reporters or not ? Yes .
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes .

J U D G M E N T

B.R PATEL, VICE-CHAIRMAN In this application under section 19 of the Administrative Tribunals Act, 1985, 13 Assistants of the Aviation Research Centre, Charbatia have asked for a direction to be issued to the respondents to give them a higher pay scale than the one given to the Deputy Field Officers (here-in-after referred to as DFOs), Sub-Inspectors (Ordnance) (here-in-after referred to as SIs) and Junior Technical Officers Gr II (hereinafter referred to as JTO Gr II). On the recommendation of the Fourth Pay Commission, their pay has been revised to Rs.1400-2600/- per month from the earlier pay scale of Rs.425-800/-. The revised pay scale given to the DFOs, SIs and JTOs Gr II is Rs.1640-2900/-. The applicants have contended that the DFOs, SIs and JTOs Gr II had earlier a lower pay scale than what was given to them and they should be given a pay scale higher than Rs.1640-2900/-.

2. The respondents have maintained in their counter that the pay scale has been revised taking into account the nature of duties and responsibilities attached to the posts. The ministerial posts in the ARC formed a part of the Directorate General of Security (here-in-after referred to as DG(S)) Cabinet Secretariat Secretarial Cadre and the Secretarial Cadre of DG(S) has the salary pattern of Central Secretariat staff and as such the pay scales of the Secretarial Cadre of DG(S) was revised according to the recommendation of the Fourth Pay Commission for the corresponding posts in the Central Secretariat. The DFOs, SIs and JTOs belong to the

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Technical and Executive Cadres of the DG(S) and they being part of the field formation of the Intelligence Organisation, their case for revision of the pay scales was not referred specifically to the Pay Commission, but the pay scales were revised taking into account the nature of duties and responsibilities assigned to them and also after considering the Pay Commission's recommendations. They have denied the allegation of arbitrariness and discrimination in the matter of revision of pay scales for the Assistants, vis-a-vis the Executive and Technical Cadres.

3. We have heard Mr R.K Mohanty, the learned Counsel for the applicant and Mr A.B Misra, learned Senior Standing Counsel for the respondents and perused the relevant documents. Mr Mohanty has contended that since the pay scale attached to the posts of DFOs, SIs(Ordnance) and JTOs Gr II prior to the recommendation of the Fourth Pay Commission was lower than the pay scale of Assistants, it was but reasonable that same parity should be maintained while revising their respective pay scales and the Assistants should be allowed higher pay scale than the one which has now been allowed to the DFOs, SIs and JTOs Gr II. Since the entire establishment is an Intelligence Organisation within the meaning of section 2(a) of the Intelligence Organisations (Restriction of Rights) Act, 1985, there is no material reason to make any arbitrary distinction between one group of posts and the other in the same Organisation and since this has been done, the action of the Government is

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violative of the provisions of Article 14 of the Constitution. Mr Misra, on the other hand, has contended that Article 14 of the Constitution is not attracted since the Assistants and the Executive and Technical staff do not belong to the same class. They belong to different Cadres and have separate Recruitment Rules. As the source of recruitment, qualification and nature of duties and responsibilities are different, there is no question of any arbitrariness or discrimination in attaching separate scales of pay to different classes of posts. In fact, according to Mr Misra, there cannot be any comparison between the Assistants, on the one hand and the DFOs, SIs(Ord) and JTO Gr II on the other. While drawing our attention to Annexure R-II, Mr Misra has also contended that there is no substantial difference in the pay scales earlier between the Assistants on the one hand and these Technical and Executive staff, on the other, as the Executive and Technical staff were given a special pay of Rs.50/- per month.

4. We have given our anxious consideration to the respective view points expressed on behalf of the applicants and the respondents. In para 2 of the Directorate General of Security, Memorandum dated 11.12.86 as at Annexure 3 and R-III, it has been mentioned that "in the interest of security, the posts in the DG(s) and the R&AW were not referred to the Pay Commission". As security consideration was involved, we agree with Mr Misra that no exception can be taken to the matter not having been referred to the Pay Commission, provided the revision of pay scale has been done on a rational basis. It has been mentioned in

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the counter of the respondents that the Assistants formed a cadre of their own and there is a separate set of rules called the Directorate General of Security Secretarial Service Rules governing the recruitment and service conditions of the Assistants. These rules were notified in Notification No.EA/SE-115-70 dated 4.11.75. The JTOs(Gr II) have also their own Cadre and are governed by another set of rules called the ARC Airwing Staff Recruitment Rules., notified in Notification No.EA/ARC-EST-9/75 dated 15.3.77. ARC Ordnance Service Rules notified by Notification No.EA/ARC-EST/75 dated 1.3.77 govern the recruitment and service conditions of the cadre of SI(Ord.). Similarly ARC(Technical) Service Rules vide Notification No.EA/ARC-EST/62/75 dated 26.4.76 govern the cadre, service conditions and recruitment of Deputy Field Officers. These facts have not been controverted. Thus the posts of Assistants and those of DFOs, SIs(Ord) and JTOs Gr II belong to different Cadres and are governed by separate Recruitment Rules and as such, treating them differently in the matter of pay scales and other service conditions will not amount to discrimination so as to attract the provisions of Article 14 of the Constitution. There is no identity of class and as such there is no question of any discrimination. The applicants who are Assistants belong to the Directorate General of Security Secretarial Service and as has been mentioned in Annexure 3, this Service has adopted the salary pattern of Central Secretariat staff and it is but proper that the benefit of revision of pay scale of the corresponding posts in the Central Secretariat should be extended to the

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Secretarial Cadre of the DG(S) and as the pay of Rs.1400-2600/- has been uniformly given to the Assistants in the Central Secretariat Service, no special dispensation can be made in favour of the Assistants of DG(S) Secretarial Cadre without disturbing the rationale and uniformity of treatment. So far as posts of DFOs, SIs(Ord.), and JTO Gr II included in the Executive and Technical Cadre of the DG(S) are concerned, they are on a different footing, not only by virtue of their having separate Cadres and separate rules governing recruitment and service conditions, but also by virtue of duties and responsibilities assigned to them. It has been mentioned in para 3 of Memorandum dated 11.12.86 vide Annexure-3 that the posts belonging to these cadres are comparable to the corresponding/similar posts in the IB, ITBP and CRPF and as such the pay scales of the posts in the aforesaid Cadres of the DG(S) were sanctioned by the Government on par with the scales notified for the corresponding posts in the IB which is another Intelligence Organisation. We agree with Mr Misra that the duties and responsibilities of similar Cadres of IB are comparable to the Technical and Executive Cadres of DG(S). It has also been mentioned in the Memorandum referred to above that " Ministerial Cadre in the IB did not get higher or special scales of pay than that of the Central Sectt. staff." This being the position, we do not accept the contention of Mr Mohanty that the applicants who are members of the DG(S) Secretarial Cadre should get higher pay than that given to the Central Secretariat staff. The marginal

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difference in the pay scale obtaining prior to the recommendation of the Fourth Pay Commission alone will not justify any higher pay scale for the ministerial cadre of the DG(S). Nature of duties and responsibilities attached to posts, is, in our opinion a better basis for fixation or revision of pay scales than the pay scale which was prevalent earlier. and in view of the change in the circumstance, the matter has to be reviewed from time to time. We also hold that Government are in a better position to judge the nature of duties and responsibilities of different categories of personnel of an Intelligence Organisation. We also noticed in Annexure 3 that the Central Secretariat Association had represented to Government on behalf of all Secretariat staff for further revision of pay scales. The Directorate General of Security in the Memorandum dated 11.12.86 vide Annexure-3 has mentioned as follows:-

" If the pay scales of Central Sectt. staff are revised by the Govt., the same scales of pay would be made applicable to the Ministerial Staff of the DG(S) also. "

As we have noticed in the Memorandum dated 11.12.86, some facilities which were not available earlier have also been extended to non-executive staff which include the Assistants.

5. For the reasons mentioned above, we do not find

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any merit in the application, which stands dismissed.
The parties to bear their own costs.

K.P ACHARYA, MEMBER (JUDICIAL)

N.J. Joseph
.....17.2.88
Vice-Chairman

I agree
K.P. Acharya
.....17.2.88
Member (Judicial)



Central Administrative Tribunal
Cuttack Bench, Cuttack
February 17, 1988 /N.J. Joseph, SPA.