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In the Central Administrative Tribunal
Jodhpur Bench, Jodhpur

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Date of order : 16 - 2 - 2001

O.A. NO. 348/1997

1. Heera Lal Joshi S/o Shri Ambalalji, aged about 38 years, R/o P.No. 237, Laxmi Nagar, Paota, Jodhpur (Presently working as LDC in the office of the Commandant, 19 FAD C/o 56 APO).
2. Shyam B. Mohghani S/o Shri Bhiman Das, aged about 39 years, R/o 2-Chh-11, Pratap Nagar, Jodhpur (Presently working as LDC in the office of the Commandant, 19 FAD, C/o 56 APO).
3. Ram Prasad Dadhich S/o Shri Nathmalji aged about 34 years, R/o House No. 3-SA-10, Madhuban Housing Board, Basni, Jodhpur (Presently working as LDC in the office of the Commandant, 19 FAD).
- Shanker Singh Solanki S/o Shri Ram Swaroopji, aged about 34 years, R/o Mahamandir, Juni Bagar, Jodhpur (Presently working as LDC in the office of the Commandant, 19 FAD, C/o 56 APO).

... Applicants.

Versus

1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. Director General of Ordnance Services, Master General of Ordnance Branch, Army Headquarters, DHQ, PO, New Delhi 110 0011.
3. AOC Records, Post Box No.3, Trimulghari Post, Sikandarabad - 500 015.
4. Commandant, 19 FAD C/o 56 APO.

... Respondents.

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CORAM :

HON'BLE MR. A.K.MISRA, JUDICIAL MEMBER

HON'BLE MR. A.P.NAGRATH, ADMINISTRATIVE MEMBER

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Mr. S.K.Malik, Counsel for the applicants.

Mr. Vinit Mathur, Counsel for the respondents.

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Per Hon'ble Mr. A.K.Misra, Judicial Member :

The applicants have filed this O.A. with the prayer that the respondents be directed to fix the pay and of the applicants equal to Postal Assistant/ Sorting Assistant of the postal department in the scale of Rs. 4,000-6000 w.e.f. the implementation of the Vth Pay Commission along with arrears. The applicants have further prayed that the respondents be further directed to grant time - bound up-gradation to the applicants after completion of 9, 18 and 27 years of service. The applicants have also prayed that the respondents be directed to grant one additional increment to graduates and two additional increments to Post Graduates personnel with all consequential benefits.

2. Notice of this O.A. was given to the respondents who have filed their reply to which no rejoinder was filed by the applicant.

3. We have heard the learned counsel for the parties and have gone through the case file.

4. During the course of arguments, the learned counsel for the applicants submitted that so far the relief of the applicants as mentioned in prayer No. 2 is

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concerned. The same is not required to be debated because up-gradation scheme has been introduced by the respondents and consequently follow-up action would be taken by the ~~Department~~ in this regard.

5. Now, the question relating to other two reliefs is required to be considered. For better appreciation we will deal with the relief No.3 first. This relief relates to grant of extra increments for educational qualifications of the candidates. In our view, no extra weightage can be given to the applicants for higher educational qualifications so as to entitle them for extra increments one for graduate and two for post graduates. This being a policy matter has got to be considered by the Government keeping in view all India implication of such claims of the applicants. Therefore, this prayer deserves to be rejected.

6. Coming to the point of claim of the applicants for grant of pay equal to the pay of postal assistants/ and sorting assistants etc. in the postal department, we are of the opinion that this again being a policy matter, cannot be debated by the Court. The applicants have claimed that as per the recommendations of the Vth Pay Commission, the postal assistants and the sorting assistants have been granted the pay scale of Rs. 4,000-6000 whereas applicants who are clerks in the defence establishment and are discharging similar type of duties, have not been granted the same pay scale and thus their fundamental rights have been violated. In this respect, it is sufficient to observe that the matter relating to grant of similar pay scale to the clerks and sorting assistants

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must have been considered by the Vth Pay Commission.

In their final report, different pay scales have been provided to the clerks and to the sorting assistants.

If for certain reasons, similar pay ^{scale} was not granted by the Commission to both categories of Government employees, it would be natural to conclude that the matter relating to discharge of duties by each categories of persons must have also been considered by the Commission and ~~thus~~ conclusion must have been based on such consideration.

The grant of similar pay scale to similarly situated employees is the consideration of expert body which has the task to consider the anomaly in this respect and to give their conclusion. Grant of pay scales comparing the duties discharged by one set of employees with that of another set of employees, is not the job of the Tribunal.

While granting pay scales various aspects are considered by the Commission and all India implication is kept in view. While we are considering the matter of grant of pay scale to the applicants as per their claim, neither we have any mechanism to judge the all India implication of such claim nor we have any source to go into the details of duties of various services or specially the sorting and postal assistants of the postal department vis-a-vis the applicants. Therefore, the applicants cannot get any relief relating to their claim.

7. Hon'ble the Supreme Court from time to time has laid down that grant of pay scale ^{particular} to a particular set of employees is a policy matter and any order in this respect by the Tribunal is, un-warranted. It would be useful to quote the principles laid down by the Hon'ble Supreme Court in Union of India and Others Vs. Makhan

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Chandra Roy, reported in 1998 SCC (L&S) 104, wherein it was held as under :-

"The approach of the Administrative Tribunal in determining the pay-scales under the revised pay rules, which should be granted to the employees, deprecated - Held, the action of the Tribunal was "totally unauthorised" because it amounted to taking a policy decision which is within the domain of the departmental authorities. Respondents' pre-revised pay scales replaced by the revised pay scales as prescribed in the CCS (Revised Pay) Rules, 1986 - Their claims as made out before the Tribunal, for still higher pay scale, rejected, but the Tribunal on its own granting to Laboratory Assistants the higher revised pay scale prescribed in the rules for Auxiliary Nurses and Midwives - Similarly, Malaria Technician granted revised pay scale prescribed for Pharmacists, Radiographers and X-ray Technicians - Tribunal doing it on the reasoning that pre-revised scales of all these posts were similar but Auxiliary Nurses, Midwives, Pharmacists, Radiographers and X-ray Technicians had been granted revised scales higher than the normal replacement scales and therefore the respondents too should be granted higher scales - Held, the Tribunal should not have ventured in the "forbidden field".

8. The learned counsel for the applicant has shown us following rulings on the point of equal pay for equal work :-

- (1) 1999 SCC (L&S) 873 - Alvaro Noronha Ferriera and Anr. vs. UOI & Ors.
- (2) 1982 SCC (L&S) 119 - Randhir Singh vs. UOI & Ors
- (3) 1985 SCC (L&S) 826 - P. Savita and Others vs. UOI and Ors.
- (4) 1996 (1) ATJ 483 - V.R. Panchal and Others vs. UOI and Others.

However, on consideration, we find that these rulings are distinguishable. The principle of equal pay for equal

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work, can only be adheared to when in all respects, two sets of candidates are exactly similarly situated and no exercise in comparing their duties ~~z~~ is involved. But, in this case we are called-upon to compare the duties of postal assistants and sorting assistants vis-a-vis the clerks, on which post the applicants are working. In view of this, the principle laid down in these rulings are not applicable. The ~~cases~~ are factually different and the rulings can only be applied when the facts of the case in hand and the facts of the rulings cited above, are similar. Therefore, the applicants cannot take advantage of these rulings.



9. In view of the above discussions, we are of the opinion that the applicants are not entitled to grant of relief by the Tribunal. They can represent their case to the Government for consideration ^{for} ~~as per their claim~~ granting similar pay scale to them. In our opinion, the OA bears no merit and deserves to be dismissed.

10. The O.A. is, therefore, dismissed with no orders as to cost.

lmp
(A.P.NAGRATH)
Adm.Member

AM 16/1/2001
(A.K.MISRA)
Judl.Member

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Bhander
21/2/2007

Part II and III destroyed
in my presence on 21.3.07
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Section officer (Record)

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