

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 473 OF 2011

FRIDAY, this the 24th day of August, 2012

CORAM:

**HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

Jacob Paul @ M.P Yacob
S/o Late P.M Poulose, aged 61 years (date of birth: 15.05.1950)
Retired Deputy Superintendent (Finger Print)
Central Finger Print Bureau
National Crime Records Bureau
East Block, 7, R.K Puram,
New Delhi – 110 066
Residing at: Mangattampillil House
Akapparambu, Mekkad – 683 589
Ernakulam District

Applicant

(By Advocate Mr.M.P Krishnan Nair)

versus

1. The Union of India, rep., by Secretary to the Government
Ministry of Home Affairs, North Block
New Delhi – 110 001
2. The Secretary, Ministry of Finance, North Block
New Delhi – 110 001
3. The Secretary, Dept. of Expenditure,
Ministry of Finance, North Block
New Delhi – 110 001
4. The Director, Central Bureau of Investigation
5-B, CGO Complex, Lodi Road, New Delhi
5. The Director, National Crime Records Bureau,
East Block, 7, R.K Puram
New Delhi – 110 066.

Respondents

(By Advocate Mr.George Joseph, ACGSC)

The application having been heard on 13.08.2012, the Tribunal
on 24 - 08 - 2012 delivered the following:



ORDERHON'BLE MR. GEORGE JOSEPH, ADMINISTRATIVE MEMBER -

The applicant who was recruited to the post of Sub Inspector of Police in the Central Bureau of Investigation (CBI) was appointed as Assistant Central Intelligence Officer Grade-II on 12.5.1975 and posted to the Central Finger Print Bureau (CFPB), Calcutta in 1977 as Sub Inspector Finger Print. On 1.7.1986 the administrative control of CFPB was transferred from the CBI to the National Crime Records Bureau (NCRB) on the specific condition that the terms and conditions attached to the posts in the CBI will be applicable to the applicant. When the pay scale of Deputy Superintendent of Police (Dy.SP) of CBI was revised with effect from 1.1.1986 the NCRB did not implement the revised pay scale to Dy.SP [Finger Print] as per the given commitment. This disparity continued in the recommendations of the Vth and VIth Central Pay Commissions. The applicant had been representing for restoring the parity of pay with CBI. He was promoted as Dy.SP (FP) with effect from 7.12.2006 in the pay scale of Rs. 6500-10500/- plus Rs. 400/- as special allowance. He had represented on 9.12.2006 to fix his pay at par with the Dy.SP of CBI at Rs. 8000-13500/-. He retired on 31.5.2010. According to the applicant by giving a wrong interpretation to his grievance and deviating from his original genuine demand, Annexure A1 order is issued by narrowing the lawful eligibility of the applicant for the scale of pay at par with Dy.SP of CBI to a mere special allowance of Rs. 800/-. Aggrieved he has filed this Original Application for the following reliefs:-

“a) To call for the entire records of the applicant's case and all action taken by the respondents in pursuance of applicant's various representations for parity of pay and also all records leading to the issue of Annexure A1 hereto and quash the same;

b) to declare that the applicant is entitled to restoration of the parity of pay scales of Deputy Superintendent (Finger Print) of Central Finger Print Bureau with that of the Deputy Superintendent of Police of Central Bureau of Investigation (CBI for short) from Rs.6500-10500 plus Special allowance of Rs.400/- to Rs.8000-13500 (pre-revised) as per the terms and conditions of his initial appointment and subsequent changes and this parity should be from the day of his promotion as Deputy Superintendent (Finger Print) on 07.12.2006 and rework and refix on 01.09.2008 the day on which applicant was granted Modified



Assured Career Progression:

- c) to direct respondents to immediately revise the pay and allowances of the applicant w.e.f 07.12.2006 and give the applicant the parity of pay scales of Deputy Superintendent (Finger Print) of Central Finger Print Bureau with that of Deputy Superintendent of Police of Central Bureau of Investigation (CBI for short) from Rs.6500-10500 plus Special allowance of Rs.400/- to Rs.8000-13500 (Pre-revised) with effect from 07.12.2006 as per the terms and conditions of his initial appointment and subsequent changes;
- d) to direct the respondents to modify and refix applicant's monthly pay and allowances accordingly and to grant its arrears forthwith with all benefits of eligible Pay Revision, increment and all other service benefits and consequential benefits with interest at the market rate;
- e) to direct the respondents to change the applicant's retiral benefits accordingly and grant him the arrears forthwith with interest at market rate;
- f) to direct the respondents to modify and refix the monthly pension of the applicant accordingly and grant the pension arrears forthwith with interest;
- g) to pass any other appropriate order or orders, directions which are deemed just and necessary in the facts and circumstances of the case;
- h) to award cost of this proceeding to the applicant."

2. The applicant contended that on implementation of the recommendations of IVth Central Pay Commission all the ranks in CFPB under the administrative control of NCRB were accorded the same pay scales as to those in the CBI except the Dy.SP (FP). The pay scale of Rs. 2000-3500/- plus special pay of Rs. 200/- was originally recommended by the IVth Central Pay Commission for Dy.SP (CBI) as well as Dy.SP (FP). However, it was revised in the case of Dy.SP, CBI alone to Rs. 2200-4000/- with effect from 1.1.1996. The NCRB inadvertently did not implement the above revised pay scale for Dy.SP (FP) in the CFPB. The recruitment for the post of Constable (FP), ASI (FP), SI (FP) and Inspector (FP) in CFPB is done through the recruitment rules framed by the CBI. The Department of Expenditure, Ministry of Finance did not apply its mind in respect of parity of pay scale of Dy. SP (FP) of CFPB with that of Dy.SP of CBI as per the terms of the original appointment order given to the applicant. In fact the Department of



Expenditure mixed up the anomaly and up-gradation, raised multiple queries and finally rejected the same without going deep in the matter and solving his genuine grievance. The Dy.SP (FP) was eligible to get the pay scale of Rs. 2200-4000/- w.e.f. 1.1.1986 in accordance with the terms and conditions of his initial appointment as Sub Inspector and repeated assurances given by the NCRB. The demand for parity in pay and allowances with that of Dy.SP of CBI is totally different from the special allowance of Rs. 800/- dealt with in Annexure A1. Vide Annexure A13 order the post of Dy.SP (FP) and others were transferred from CFPB, Kolkatta to NCRB, New Delhi and the other terms and conditions attached to the post also remained unchanged. The grant of MACP has nothing to do with the parity of pay revision to the Dy.SP (FP) in NCRB.

3. The respondents in their reply statement submitted that the applicant and others have been taken on the strength of NCRB on the same terms and conditions of CBI that were prevailing at the time of their transfer. However, the future service conditions would be governed by different factors that happened from time to time. Once the applicant along with the post is transferred to NCRB his claim for parity in the pay scale with that of CBI, therefore, cannot be accepted. The applicant has been granted pay and allowances as per the rules and regulations of the Government. Hence, his claim for pay parity with other Department is not justified. A proposal for upgrading the scale of Dy.SP(FP) in the PB 15,600-39,100/- with grade pay of Rs. 5400/- was mooted and examined in consultation with the Department of Expenditure. But it was not agreed to. In order to provide distinction between the feeder cadre and the promotional post special allowance of Rs. 800/- has been approved for the post of Dy.SP (FP).

4. We have heard the learned counsel for the parties and perused the records.

5. The main grievance of the applicant is non-grant of parity in scale of

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pay with that of Dy.SP, CBI. The applicant was recruited to the CBI. He was transferred to the NCRB with specific commitment that "The other terms and conditions attached to the aforesaid posts will remain unchanged" as per Annexure A13 order dated 28.12.1987. The pay of Dy.SP(FP) and Dy.SP, CBI recommended by the IVth Pay Commission was Rs. 2000-3500/- . In the case of Dy.SP, CBI it was later upgraded to Rs. 2200-4000/- which was replaced by Rs. 8000-13,500/- and 15600-39100 with grade pay of 5400/- by subsequent pay revisions. The responsibilities and duties of Dy.SP(FP) and Dy.SP, CBI are of the same level. All the cadres in the FP except the cadre of Dy.SP (FP) are getting the pay scales of corresponding cadres in the CBI. These relevant factors should have been considered by the respondents. Seven times the Home Ministry had taken up the matter of granting parity in the scale of pay to the Dy.SP(FP) on par with Dy. SP (CBI) which was stone-walled by the Department of Expenditure without due application of mind. There is nothing on record to show that the relevant facts as mentioned above have been considered by the Department of Expenditure. The decision to reject the request of the applicant for parity with Dy.SP, CBI is not based on cogent reasons. The suggestion to refer the matter to the VIth Central Pay Commission was merely passing the buck. If the pay scale of the Dy.SP, CBI could be modified without reference to the Central Pay Commission it was possible to modify the pay scale of Dy.SP (FP) also without referring to the Central Pay Commission. While representations of the applicant were doing rounds in the Ministry the special allowance of Rs. 400/- attached to the post of Dy.SP was raised to Rs. 800/- so as to distinguish it from the feeder cadre. The same was discontinued vide Annexure A1 order. It would have been appropriate to decide the issue of withdrawal of the special pay of Rs. 800/- after considering the issue of parity having regard to all the relevant factors. The respondents cannot wriggle out of the commitment of honouring the terms and conditions of service applicable to the applicant in the CBI when he was transferred to the NCRB, by washing off their hands the way they did. It was unfair and unjust on the part of the

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respondents to have discontinued vide Annexure A1 order dated 17.1.2011 the special allowance of Rs. 800/- to the Dy.SP (FP) with effect from 1.9.2008 on grant of MACP, which was granted an off shoot, while considering his case without first settling the issue of parity in pay scale as represented by the applicant.

6. In the conspectus of the facts and circumstances of the instant case, we are of the considered view that the respondent No. 3 should reconsider the issue of granting parity in scale of pay to the applicant with that of the Dy.SP, CBI having regard to all relevant factors. Ordered accordingly. If parity is granted the question of discontinuance of the special allowance may be considered. In order to enable the respondents to take a holistic view of the matter, Annexure A1 order is set aside. The representation of the applicant for parity in pay with his counterpart in the CBI should be disposed of by a speaking order and communicated to the applicant within a period of three months from the date of receipt of a copy of this order.

7. Original Application is disposed of as above. No order as to costs.



K GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R.RAMAN
JUDICIAL MEMBER

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