

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No. 132 / 2008

Tuesday, this the 24th day of February, 2009.

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HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

HON'BLE Ms. K NOORJEHAN, ADMINISTRATIVE MEMBER

1. V.S.Unnikrishnan,
Senior Tax Assistant,
O/o the Chief Commissioner of Income Tax,
Trivandrum.
2. N.Ramesh,
Senior Tax Assistant,
O/o the Chief Commissioner of Income Tax,
Trivandrum.
3. R.Lilly,
Senior Tax Assistant,
O/o the Commissioner of Income Tax,
Aayakar Bhavan, Kowdiar,
Trivandrum.
4. G.S.Vinodkumar,
Senior Tax Assistant,
O/o the Additional Commissioner of Income Tax,
Range-1, Trivandrum.
5. K.G.Prathap Chandran,
Senior Tax Assistant,
O/o the Assistant Commissioner of Income Tax,
(Central Circle), Trivandrum.Applicants

(By Advocate Mr G Sasidharan Chempazhanthiyil)

v.

1. Chief Commissioner of Income Tax,
Aayakar Bhavan, Kowdiar,
Trivandrum-3.
2. Director General of Income Tax(Administration),
Department of Revenue,
Ministry of Finance, Mayoor Bhavan,
New Delhi.



3. Union of India represented by
the Secretary,
Income Tax Department,
Ministry of Finance,
New Delhi.Respondents

(By Advocate Mr. T.P.M.Ibrahim Khan, SCGSC)

This application having been finally heard on 29.1.2009, the Tribunal on 24.2.2009 delivered the following:

ORDER

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

Applicants in this O.A are Upper Division Clerks, re-designated as Tax Assistants, working in the Income Tax Department. The relief they sought for in this O.A is to treat them on par with Auditors/Accountants under the various offices of Controller & Auditor General in the matter of their pay scales on the basis of the principle of "equal pay for equal work".

2. Brief facts are that the applicants, on qualifying the Common Recruitment Tests conducted by the Staff Selection Commission for UDCs in the Income Tax/Central Excise/Customs etc., joined the Income Tax Department on different dates during the years 1995 to 1998. The pay scale of both the UDCs and Auditors was Rs.1200-2040. With the acceptance of the recommendation of the Vth Pay Commission, the UDCs in the Income Tax Department were granted the replacement scale of Rs.4000-6000 while the Auditors/Accountants were given higher pay scales of Rs.5000-7000. Later on, the post of UDCs in the Income Tax Department was re-designated as Tax Assistants with the same pay scale with effect from 4.7.2001. According to the applicants, the work performed by the UDCs and the UDCs/Tax Assistants and Auditors/Accountants is basically clerical in nature and they are recruited on the basis of the same examination conducted by the Staff Selection Commission and it is only by a sheer chance, one is posted as UDC in the Income Tax Department and another is posted as



Auditor/Accountant in the office of the Controller & Auditor General. They have, therefore, submitted that the denial of the higher pay scale granted to the Auditors/Accountants is nothing but discrimination. Pointing out the aforesaid facts, the applicant made the Annexure A-1 to A-7 individual representations followed by Annexure A-6 series of reminders dated 26.7.2006. Since there is no response from the respondents to the aforesaid representations, they approached this Tribunal with the present Joint Application seeking the following reliefs:

- (i) Direct the respondents to consider the claim of the applicants raised for equal pay for equal work in respect of the post of UDCs (redesignated as Tax Assistants) in Income Tax Department with that of Auditors/Accounts under various offices of C & AG.
- (ii) Direct the respondents to consider and pass orders on Annexure A-1 to A-7 forthwith with hearing opportunity.

3. Various grounds in brief adduced by the applicants in support of their aforesaid reliefs are: The initial scale of both the UDCs/Tax Assistants and Auditors/Accountants were the same, (ii) The nature of duties of both the posts of UDCs/Tax Assistants and Auditors/Accountants are clerical and it is identical, (iii) the source of recruitment, qualification etc. of both the UDCs/Tax Assistants and Auditors/Accountants are the same, (iv) the denial of higher scale of pay to the applicants as given to the Auditors and Accountants is against the principles of equal pay for equal work.

4. In the reply statement, the respondents have admitted that the nature of the work of UDCs/Tax Assistants is essentially clerical in nature. As regards the nature of duties of Auditors/Accountants, they have submitted that they are not aware of the same. As regards the higher pay scale for the Auditors/Accountants are concerned, they have submitted that the Government of India has already taken a policy decision to grant the same pay scale to all the



staff belonging to the organized Accounts Department vide their Annexure R-1 O.M issued by the Ministry of Finance and Company Affairs, Department of Expenditure dated 28.2.2003. According to the said OM, the Government had granted pay scale to the Accounts staff of the Railways and later on it was extended to corresponding categories of various organized categories of Accounts Cadres. The pay scale of the posts of Auditor/Accountant, Senior Auditor/Senior Accountant, Section Officer, Assistant Audit Officer and Assistant Accounts Officer were given the respective higher pay scales of Rs.4500-7000, 5500-9000, 6500-10500 instead of the existing pay scale of Rs.4000-6000, 5000-8000, 5500-9000 and 6500-10500.

5. We have heard the learned counsel for the parties. The very designations of UDCs/Tax Assistants & Auditors/Accountants indicate that the nature of their work are not identical. Both the applicants and the respondents have admitted that the nature of work of the UDCs/Tax Assistants is essentially clerical in nature. Therefore, they are to be treated at par with UDCs in other Departments who perform the clerical duties. The successive Pay Commissions have done so and we do not find any illegality or arbitrariness in the matter. As far as the Accountants and Auditors are concerned, they belong to an entirely different category of staff performing the duties relating to accounting and auditing. This fact has already been confirmed by the Department of Expenditure, Government of India by issuing the Annexure R-1 OM referred to above. The nature of duties of Auditors and Accountants working in the organized Accounts Department are no doubt, different from persons performing clerical work. Therefore, the contention of the applicant that both the UDCs/Tax Assistants in the Income Tax Department and Auditors/Accountants in the Controller & Auditor General's Office are performing the same clerical work is not correct. Moreover, fixation of pay scale to different categories of employees working under the Government is



a function of the Pay Commissions appointed from time to time. The Vth Pay Commission has taken a conscious decision that the Auditors and Accountants should be given a higher pay scale than the UDCs/Tax Assistants. The difference in the pay scales of UDCs/Tax Assistants and Auditors and Accountants continued to be maintained by the Vth Pay Commission also. Therefore, it is evidently clear that the work being performed by the UDCs/Tax Assistants in the Income Tax Department is not the same as the work being performed by Auditors and Accountants in the Organized Accounts Department including the office of the Controller & Auditor General of India. We therefore, do not find any merit in the contentions of the applicants. The O.A is, therefore, dismissed. There shall be no order as to costs.


K NOORJEHAN
ADMINISTRATIVE MEMBER


GEORGE PARACKEN
JUDICIAL MEMBER

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