

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

ORIGINAL APPLICATION NO. 171 of 2012

CORAM

*Wednesday* this the <sup>16<sup>th</sup></sup> day of September, 2015

**Hon'ble Mr. Justice N.K.Balakrishnan, Judicial Member**  
**Hon'ble Mrs. P.Gopinath, Administrative Member**

1. All India Naval Technical Supervisory Staff Association, Southern Division, Naval Ship Repair Yard, Kochi-4 represented by the Secretary, Sri K.Krishnakumar, aged 53 years, S/o late K.Balakrishnan Nair, Chargeman-I, Naval Ship Repair Yard, Naval Base, Cochin-682004 residing at Kuzhikattil House, Annanad PO, Thrichur-680324..
2. A.E.Johnson, aged 51 years, S/o A.M.Elias, Foreman, Naval Ship Repair Yard, Naval Base, Cochin-682004 residing at Areeckakunnil House, South Piramadam, North Piramadam PO, Pampakuda, Ernakulam District-686667.
3. P.K.Poly, aged 56 years S/o P.P.Kochappu, Chargeman (Engine Fitter), Naval Ship Repair Yard, Naval Base, Cochin-682004 residing at Petta House, H.No.166, K.K.Road, Chembumukku, Thrikkakara, Ernakulam.
4. K.K.Sasidharan, aged 51 years, S/o late K.N.Krishnan Nair, Chargeman, Naval Ship Repair Yard, Naval Base, Cochin-682004 residing at 'Prasanna Bhawan', Kanichira, Kureekad PO, Thiruvankulam, Ernakulam -682305.

**...Applicants**

(By Advocate Mr. Shafik M.A)

Versus

1. Union of India, represented by the Secretary, Ministry of Defence, New Delhi.
2. The Chief of Naval Staff, Naval Headquarters, New Delhi.
3. The Flag Officer Commanding in Chief, Southern Naval Command, Naval Base, Cochin

**...Respondents**

(By Advocate Mr. N. Anil Kumar, Sr. Panel Central Govt. Counsel)

This application having been finally heard on 01.09.2015, the Tribunal on 16.09.2015 delivered the following:

**ORDER**

*Per: Justice N.K. Balakrishnan, Judicial Member*

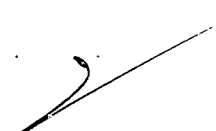
First applicant is the Association of Technical Supervisors. Applicants 2 to 4 are Technical Supervisors. The applicants joined service during 1977-84 and have earned promotions to different categories. As a result of the implementation of 6<sup>th</sup> Central Pay Commission (CPC) supervisory powers attached to the cadre have been nullified due to merging of pay scales with that of supervised staff along with supervisory staff. The 6<sup>th</sup> CPC restructured four grade service of Technical Supervisory Staff into Two Grade structure. It was accepted by the Ministry of Defence. It has resulted in demoralization of the cadres. By the third and fourth pay commissions Technical Supervisors were given higher pay scales among the entire Class III/Group C employees. In 1971 Devnath Committee was appointed by the first respondent to study and recommend suitable cadre revision of Technical Supervisors of Navy. That committee recommended certain changes in designation of the category as shown below:

<b>Sl.No.</b>	<b>Proposed Designation/Grade</b>	<b>Pay scale</b>
(a)	Senior Foreman	Rs. 450-650
(b)	Foreman	Rs. 370-550
©	Senior Chargeman	Rs. 25-380

That committee recommended the changes in designation and higher pay



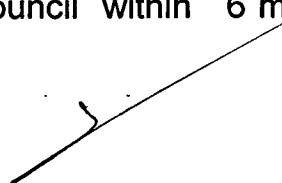
scales to Technical Supervisory staff of Navy considering the fact that the categories of supervisors of Naval Dockyard have already been placed in Cadre I trade structure and hence they should be given higher scale of pay in comparison with supervisory staff of other departments. 3<sup>rd</sup> CPC also recommended the change of designation. Thereafter 4<sup>th</sup> CPC was appointed. That pay commission also did not go into the details of classification. The 5<sup>th</sup> Pay Commission studied various anomalies of Technical Supervisors and recommended a uniform Four Grade structure. The 5<sup>th</sup> CPC was implemented in Defence Establishments. Sr.Foreman was redesignated as Foreman which was the feeder cadre designation. The Foreman was re-designated as Chargeman I That was the feeder post for Foreman. The Sr.Chargeman was re-designated into Chargeman II with a feeder cadre designation to Sr.Chargeman in Part II Cadre. There was thus down gradation of designation which created confusion. This has created heart burn to Supervisors and has adversely affected the morale of the individuals. Annexure A2 memorandum was given by the Association to the 6<sup>th</sup> Pay Commission. However 6<sup>th</sup> CPC restructured the Four Grade structure into Two Grade structure. The downgradation effected can be seen from the table mentioned above. From the 5<sup>th</sup> CPC onwards pay of Technical Supervisors was downgraded. Now the Foreman and Sr.Chargeman are getting the same grade pay. Though the grade pay of Chargeman II and Chargeman I got merged, the pay has not been improved. There is gross violation of constitutional provision of equal pay for equal work. Chargeman II and Chargeman I have been given the



same grade of Rs. 4200/- at par with Master Craftsman. A detailed representation was given by the 1st applicant Association to 2<sup>nd</sup> respondent (vide Annexure. A3). And another representation to the immediate supervising official of 2<sup>nd</sup> respondent (vide Annexure.A4). Thus the applicants seek a declaration that the Chargeman among the applicants are entitled to the scale of pay of Rs. 9300-34800 with a grade pay of Rs. 4800 and the Assistant Foreman and Foreman in the same scale with a grade pay of Rs. 5400/-. They also seek a direction to be issued to revise and refix the pay of Chargeman among the applicants in the scale of Rs. 9300-34800 with a grade pay of Rs.4800/- and that the Assistant Foreman and Foreman in the same scale with a grade pay of Rs. 5400/-.

2. The respondents have filed reply statement contending as follows.

2.1 The applicants are bringing out anomalies of different nature meted out by the Technical Supervisors working in the Navy consequent to the implementation of 6th CPC. These are the issues to be addressed either in the Departmental Anomaly Committee or National Anomaly Committee since they are the bodies constituted for the purpose of settling anomalies arising out of the implementation of the 6<sup>th</sup> CPC recommendations. In OA 516/2006 it was held by this Tribunal that the Tribunal cannot take the role of a pay commission to determine what should be the appropriate pay scales of various posts. As per Para 5 of Annexure. A.8 the anomalies are to be resolved through the Secretary, Staff side of the respective council within 6 months from the date of its

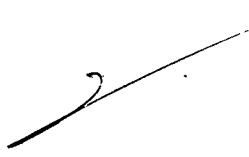


constitution for consideration by the anomaly committee. That was not done by the applicants. Not only the Technical Supervisor but other cadres also have vital role of their own in accomplishing the tasks of the Navy. All the branches including technical supervisors are indispensable for day to day discharge of their responsibilities. The contribution of other branches in the Navy cannot be belittled by glorifying the role of Technical Supervisors. The contention that due to reconstitution of the Technical Supervisors from Four Tier Structure to Two Tier Structure they have been placed in a disadvantageous position is without any basis. On the other hand because of the reconstitution, those in these cadres have got better promotional avenues with the intermediary grades of Chargeman Gr.II and Assistant Foreman having been done away with.

3. A rejoinder was filed by the applicants reiterating the contentions taken earlier and also controverting the statement made in the reply statement.

4. The point for consideration is whether the applicants are entitled to the declaration or fixation of scale of pay as sought for by them?

5. We have heard the learned counsel appearing for the parties and gone through the records and documents produced by the parties. It is mainly contended by the applicants that as per the recommendation of 6<sup>th</sup> CPC which was accepted by the Govt. of India, Defence Ministry, the supervisory power attached to the cadre was taken away due to merging of pay scale as that of supervised staff. It is true that as per the 6<sup>th</sup> CPC the Four Grade structure of Technical Supervisory staff was restructured into



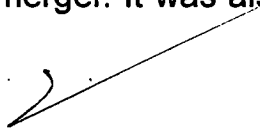
Two Grade structure and granted the same grade pay to the staff of Chargeman under them. It is contended that since the pay scale of supervisory and supervised staff is the same it affected the morale of the supervisory staff since the higher pay is the basis for the supervisory character. It is contended that though representations were made no action was taken to rectify that anomaly. The applicants vehemently relied upon the recommendations made by the 3<sup>rd</sup> & 4<sup>th</sup> CPCs. In this connection the applicants have also relied upon the recommendations made by Respondents 2&3 to the 7<sup>th</sup> Pay Commission. The applicants have prepared a table showing the change effected in the various level of officers like Foreman, Asst. and Sr.Chargeman etc. as stated below:

<b>Level</b>	<b>Designation as per 3<sup>rd</sup> CPC</b>	<b>Designation as per 4<sup>th</sup> CPC</b>	<b>Designation as per 5<sup>th</sup> CPC</b>	<b>Designation as per 6<sup>th</sup> CPC</b>
Level 5	Senior Foreman	Senior Foreman		
Level 4	Foreman	Foreman	Foreman	Foreman
Level 3			Asst.Foreman	
Level 2	Senior Chargeman	Senior Chargeman	Chargeman I	
Level 1			Chargeman II	Chargeman

As can be seen from the table shown above Sr.Foreman from Level 5 has come down to Level 4 as Foreman. The Foreman from Level 4 has come down to Level 3. It is also pointed out that Sr.Chargeman was brought down from Level 2 to Level 1 as Chargeman. According to the applicants there was downgradation of the pay of Technical Supervisors from 5<sup>th</sup> CPC

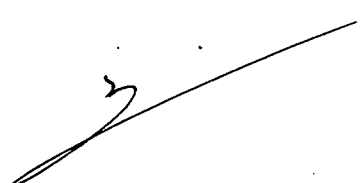
onwards. It may be true that the Foreman and Sr.Chargeman as they were designated as per 4<sup>th</sup> CPC are now getting the same grade pay of Master Craftsman.

6. It can be seen from the report of the 5<sup>th</sup> Pay Commission that the Commission recommended running pay bands and many of the existing pay scales were merged with a view to de-layer the Government by cutting down the number of hierarchical levels. It is stated that it would necessitate merger of posts hitherto in different pay scales and which, in a few cases constituted feeder and promotion posts. Existing relativities between posts in various categories have, as far as possible been kept in view while evolving new structure for various common categories. It was emphasized that the focus of the report is to ensure between delivery mechanisms for the citizens of this country. It was further stated that as a method of de-layering, the Commission has recommended merger of the pay scales of Rs 5000-8000/-, Rs. 5500-9000/- and Rs. 6500-10500/-. It is also stated that in a large number of cases posts in these pay scales have existed as feeder and promotion posts. While the Commission has tried to ensure that the promotion post is normally placed in a higher pay scale, in many cases the same has not been done. It is further stated that for a few categories the erstwhile feeder and promotion post have been merged. It was a conscious decision of the Commission and has been resorted to in cases where functional justification for maintaining two distinct level as feeder and promotion posts did not exist or where the operational efficiency was or is likely to actually improve by the merger. It was also stated that in all cases



the interests of personnel in the erstwhile promotion-grade have been protected by ensuring their seniority as well as higher pay, keeping intact in the revised running pay bands recommended by the Commission.

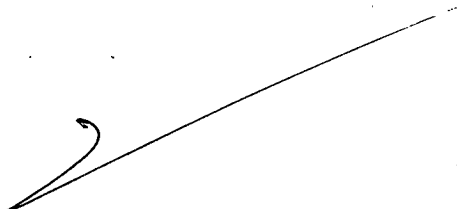
7. It can also be seen from the report of the 6<sup>th</sup> CPC that questionnaire were prepared by the Commission and given to the employees, their associations, unions, etc. and they have given their suggestions by their memoranda. Those provided inputs in formulating the recommendations contained in the report. It is stated by the commission that the report was actually the result of contributions of all those interactions and valuable contributions made by the representatives of various associations, the officers of the defence pay commission cell etc. It is pointed out by the learned counsel for the respondents that in OA 1149/2014 which has also been heard along with this OA the applicants who were Senior Chargemen of Naval Ship Repair Yard (NSRY) contended that they were discriminated against their counter parts working in NASO. In that case it is contended by the respondents that the anomaly projected by the applicants therein were considered by 6<sup>th</sup> CPC. Now the applicants in this case would contend that the Commission is not justified in causing merger which has in fact caused down-gradation of designation. For example, according to the applicants Senior Chargeman has been re-designated as Chargeman-II which was in fact a feeder cadre designation to Senior Chargeman. According to the applicants the re-designation or down-gradation of designation has aggravated the anomaly but that was not properly addressed by the 6<sup>th</sup> Pay Commission. The contentions






raised by the applicants in OA 1149/2014 are contrary to the plea raised by the applicants in this case. According to the respondents when attempt is made to redress the grievance of one organization it is opposed by their counter-parts in the other organization. The Pay Commission or the Government cannot satisfy the requirements and desires of all employees unmindful of the financial implications or totally disregarding the fact that crores of people in this country are striving hard for want of employment and are in poor living conditions and when when employment oriented development programmes are to be undertaken by the Government.

8. The contention raised by the applicants that the Technical Supervisors play the vital role in maintaining the harmonious industrial relation in Naval Dockyard in NSRY and their duties are multifarious and onerous and that they are altogether a different category and so they are not comparable with employees with other branch have been countered by the respondents pointing out that all branches including Technical Supervisors are indispensable for day to day discharge of their responsibilities and aims and goals can be achieved only by working as a team in co-ordination with each other. So much so, according to the respondents the contributions of other branches in the Navy cannot be belittled by glorifying the role of Technical Supervisors. It is not the function of the Tribunal to have a comparative study as to whether the duties and responsibilities of the Technical Officers are more onerous than that of others since it is the Pay Commission which is the expert body which has taken note of all those aspects.

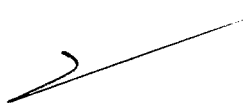


9. According to the respondents because of reconstitution of the Technical Supervisory cadre from Four Tier structure to Two Tier structure, those in the cadre have got better promotional avenues, since the intermediary grades of Chargeman Grade-II and Assistant Foreman have been taken away or done away with, but at the same time keeping the number of posts in tact without any change. Chances of creation of posts are also attributable to the adoption of Two Tier structure of Technical Supervisory staff, the respondents contend. It is also pointed out that posts of Foreman were increased from 15% to 40% of the total posts and thereby there was increase in the promotional prospects to a gazetted post by 25% of the total sanctioned posts. Chargeman Grade-II was drawing pre-revised pay scale of Rs. 5000-150-8000/- and Chargeman Grade-I was drawing pre-revised scale of Rs. 5500-175-9000/-. The merged grade of Chargeman is granted replacement pay scale of Rs. 9300-34800/- with a Grade Pay of Rs. 4200/-, whereas Chargeman Grade-II is entitled for Grade Pay of Rs. 3200/- and Chargeman Grade-I is entitled to Grade Pay of Rs. 3600/-. Similarly, Assistant Foreman and Foreman also gained due to merger of those posts as Foreman since the Grade Pay granted to them is Rs. 4600/-. While in the Four Tier structure the vacancies were distributed among Chargeman Grade-II and Chargeman Grade-I, the same now stands distributed, one each for Chargeman and Foreman and therefore, those in the trade of Ship Fitter who could not aspire to become Foreman in the Four Tier structure can now become Foreman which is a gazetted post.

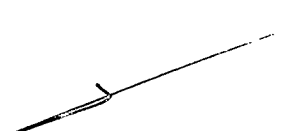


10. It is contended by the respondents that anomaly committee was constituted for the purpose of settling anomalies arising out of the implementation of the 6<sup>th</sup> CPC recommendations. If the applicant had any grievance certainly they could have taken up the matter at the appropriate level to redress their grievance if any. Annexure A11 and similar recommendations made by the Lt. Commander attached to NSRY have been pressed into service by the applicants, since it is stated that the heartburns of the applicants were projected in those letters/recommendations made to the Head of the Department. It is contended by the respondents that the Head of Office where the applicants are working will certainly act in tune with the claim/demand made by the officers/subordinate staff of that organization, but that does not mean that respondents 1 and 2 should issue orders based on such recommendations, ignoring the fact that the Two Tier structure was implemented by the Defence Ministry based on accepting the recommendation of the 6<sup>th</sup> Pay Commission.

11. Considering the representations of different associations/unions/representatives of the different organizations/institutions the 6<sup>th</sup> CPC had worked out a structure of emoluments, conditions of service, pattern of pay scales plus Grade Pay by cascading a number of scales which existed as a consequence of the 5<sup>th</sup> CPC. The cascading of pay scales into four pay bands by 6<sup>th</sup> CPC resulted in the tunneling effect of pay scales which would have otherwise defined the authority/supervisory structure, by placing officials in a large number of pay scales. That simplification is



reflected in the entire scheme of pay scales being substituted by a system of running pay bands where the existing 35 pay scales have been replaced by four running pay bands comprising 20 grades. Rationalising administrative structure in order to improve delivery mechanism for providing better services was an important objective behind in causing simplification of the pay scales as mentioned above. It is contended that the effect of the rationalization of structures and pay scales, systems and processes by the Government was done with a view to leveraging economy, accountability, responsibility and transparency. The 6<sup>th</sup> CPC sought to remove a number of superfluous level. It is pointed out that this cascading effect has resulted in some juniors and seniors drawing the same scale of pay. They are differentiated only by the pay band which provided an important distinction of officials in a cadre. It is also contended that the Government of India had, till 6<sup>th</sup> CPC, calibrated and defined cadres and seniority by several functional pay scales, which drew the distinction between senior and junior and gave a definite authority and supervisory structure. That differentiation between supervisory and supervised staff was disturbed or taken away by the cascading effect, the applicants contend. But at the same time, it must be remembered that it has given advantage to officials in the lower stage by equating them with their seniors who till the 5<sup>th</sup> CPC drew a higher pay scale. True that it must have created a disadvantage to the seniors by putting them in the same pay scale as the juniors though their Grade Pay may be a distinguishing factor. The 6<sup>th</sup> CPC in its report has stated that the report is a holistic



document and has to be treated as an organic whole, since all recommendations contained therein are inextricably intertwined. Accordingly any modifications in the scheme of recommendations can severely affect the outcome, the report (6<sup>th</sup> CPC) sets out to achieve.

12. It is trite law that the Tribunal cannot sit in judgment over the wisdom of the Pay Commission. As the Pay Commission had submitted its report after going through the representations, suggestions, etc. of various organizations, associations of employees and officers and since that Commission is the expert body the Tribunal cannot sit in judgment as an appellate authority to hold that the introduction of running pay bands has to be set at naught or that a different pay scale should be granted to the applicants. Since the recommendations of the Pay Commission were accepted by the Government of India which is actually based on a policy decision it cannot be undone pointing out some mistakes (if any) at some portion, since if such a course is adopted it will have the effect of multiplying the whole report and action taken pursuant thereto. Where the administrative authority is conferred with a discretionary jurisdiction the Tribunal cannot issue directions in the nature of mandamus commanding the respondents to assign a different designation to the applicants or to fix a different pay scale. The claim made by the applicants is misconceived and ill advised, the respondents contend. If only the applicants have a right to compel the performance of some duty cast on the respondents an order can be issued for that purpose.

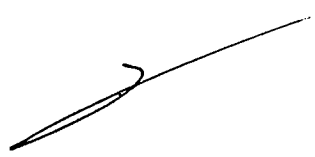
13. Fixation of pay scale should be left to the expert or employer. The



principle of equal pay for equal work has no mechanical application in every case. Article 14 permits reasonable classification based on qualities, nature of duties and responsibilities and so many other factors. That principle has no mathematical application in every case. Article 14 of the Constitution permits reasonable classification based on qualities and characteristics of persons recruited and grouped together. It was held by the Supreme Court in ***State of Harayana v. Charanjit Singh*** – 2006 (9)

**SCC 321:**

"19. ....The principle of "equal pay for equal work" has no mechanical application in every case. Article 14 permits reasonable classification based on qualities or characteristics of persons recruited and grouped together, as against those who were left out. Of course, the qualities or characteristics must have a reasonable relation to the object sought to be achieved. In service matters, merit or experience can be a proper basis for classification for the purposes of pay in order to promote efficiency in administration. A higher pay scale to avoid stagnation or resultant frustration for lack of promotional avenues is also an acceptable reason for pay differentiation. The very fact that the person has not gone through the process of recruitment may itself, in certain cases, make a difference. If the educational qualifications are different, then also the doctrine may have no application. Even though persons may do the same work, their quality of work may differ. Where persons are selected by a Selection Committee on the basis of merit with due regard to seniority a higher pay scale granted to such persons who are evaluated by the competent authority cannot be challenged. A classification based on difference in educational qualifications justifies a difference in pay scales. A mere nomenclature designating a person as say a carpenter or a craftsman is not enough to come to the conclusion that he is doing the same work as another carpenter or craftsman in regular service. The quality of work which is produced may be different and even the nature of work assigned may be different. It is not just a comparison of physical activity.




The application of the principle of "equal pay for equal work" requires consideration of various dimensions of a given job. The accuracy required and the dexterity that the job may entail may differ from job to job. It cannot be judged by the mere volume of work. There may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities make a difference. Thus normally the applicability of this principle must be left to be evaluated and determined by an expert body....."

14. It was followed by the Supreme Court in *Union of India v. Dineshan K.K.* - 2008 (1) SCC 586, where it was held:

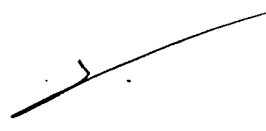
*".....Enumerating a number of factors which may not warrant application of the principle of equal pay for equal work, it has been held that since the said principle requires consideration of various dimensions of a given job, normally the applicability of this principle must be left to be evaluated and determined by an expert body and the court should not interfere till it is satisfied that the necessary material on the basis whereof the claim is made is available on record with necessary proof and that there is equal work of equal quality and all other relevant factors are fulfilled."*

15. Again in *Union of India v. S.B. Vora* – 2004 (2) SCC 150 while dealing with the fixation of pay scales of officers of High Court of Delhi (Assistant Registrar) it was held that fixation of pay scales is within the exclusive domain of the Chief Justice subject to the approval by the President/Governor of the State and the matter should either be examined by an expert body or in its absence by the Chief Justice.

16. Suffice it to say, the fixation of pay scale is the function of the executive. The scope of judicial review of administrative decision in that regard is very limited. It cannot be said that the decision of the executive in accepting the Pay Commission Report and implementing the same in tune
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with the recommendation is unreasonable, unjust or prejudicial to a section of employees. In any event, if there is an anomaly, that has to be addressed to the anomaly committee constituted for that purpose. It is contended by the respondents that since the 7<sup>th</sup> Pay Commission has called for recommendations and suggestions, it was up to the applicants to address their grievances before the 7<sup>th</sup> Pay Commission. This Tribunal cannot act as another Pay Commission to recommend re-designation of the various posts or to recommend pay scales as claimed by the applicants. Even though persons may do the same work their quality of work produced may be different. There may be qualitative difference as regards reliability and responsibility. Equal pay must depend upon the nature of the work done. It cannot be judged by the mere volume of work. There may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities would make a difference. One cannot deny that often the difference is a matter of degree and there is an element of value judgment by those who are charged with the administration in fixing the scales of pay and other conditions of service. So long as such value judgment is made bonafide, reasonably on an intelligible criteria which has a rational nexus with the object of differentiation, such differentiation will not amount to discrimination.

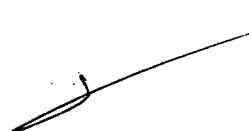
17. In ***Supreme Court Employees Welfare Association Vs. Union of India and another - 1989 (4) SCC 187*** it was held that where unequal pay brought about a discrimination within the meaning of Article 14 it will be a case where "equal for pay equal work" as envisaged by Article 14 may





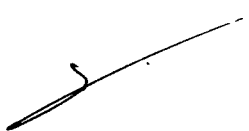
have application. If the classification is proper and reasonable and has a nexus to the object sought to be achieved, the doctrine of "equal pay for equal work" will not have any application even though the persons doing the same work are not getting the same pay. It was also held that normally when a pay commission evaluated the nature of duties and responsibilities of posts and has also made the equation of posts, the court should not interfere with the same. It was further held that it is not the business of the court (Supreme Court) to fix the pay scales in exercise of its jurisdiction under Article 32. It is for the Government or the management to fix the pay scales after considering various other matters and the court can only consider whether such fixation of pay scales has resulted in an invidious discrimination or is arbitrary or patently erroneous in law or in fact.

18. In *Union of India Vs. Pradip Kumar Dey 2001 SCC (L&S) 56* the respondents/claimants relied upon the recommendation made by the Directorate to the Pay commission. It was observed by the Supreme Court that no doubt the Directorate of CRPF made recommendations to the Pay Commission to grant higher pay scale. The factual statements contained in the recommendation of a particular department alone cannot be considered per se proof of such things nor can they by themselves vouch for the correctness of the same. It was held that such recommendations could not be taken as a recommendation made by the government. Even otherwise, mere recommendation does not give any right on the applicants to make such a claim for a writ of mandamus, it



was held. This has relevance here in view of the fact that the applicants rely upon certain letters in the nature of recommendations made by the Head of Office of the applicants to Respondents 1&2 to contend for the position that even the Head of Office had taken cognizance of the fact that the claim made by the applicants is just and legitimate. But the respondents would contend that such recommendations were made by the Head of Office or the immediate supervisors of the applicants, who by the nature of their relationship, would certainly be obliged to make such recommendation but that will not in any way help the applicants to contend that their claim is just and legitimate. Be that as it may, the applicants cannot rely upon those letters to contend for the position that the pay structure should be re-determined by this Tribunal and the designation of the post should also be redefined.

19. In ***Union of India and others Vs. TVLN Mallikarjuna Rao and others – (2015) 3 SCC 653*** also the Apex Court dealt with the principle of equal pay for equal work. After rationalization of pay scales of Electronic Data Processing post as Data Entry Operator, number of persons who were working against lower post of Key Punch Operator in pay scale Rs. 950-1500 and re designated as Data Entry Operator claimed that they were entitled for the scale of pay of Rs. 1350-2200. That claim was allowed by the Tribunal and affirmed by the Hon'ble High Court. Allowing the Appeal it was held by the Apex Court that classification of posts and determination of pay structure comes within the exclusive domain of the Executive and the Tribunal cannot sit in appeal over the wisdom of the executive in



prescribing certain pay structure and grade in a particular service. It was held:

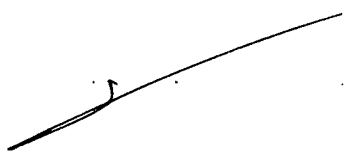
"26. The classification of posts and determination of pay structure comes within the exclusive domain of the Executive and the Tribunal cannot sit in appeal over the wisdom of the executive in prescribing certain pay structure and grade in a particular service. There may be more grades than one in a particular service."

It was also held in the said decision:

"27. The Government on consideration of the report submitted by the Committee issued Office Memorandum dated 11.9.1989 prescribing therein different pay scales and different grades of Data Entry Operators besides the mode and manner of recruitment to and qualifications for each entry grade post as well as eligibility and experience for promotional grades. The Court or the Tribunal, in our opinion, would be exceeding its power of judicial review if it sits in appeal over the decision of the executive in the matter of prescribing the pay structure unless it is shown to be in violation of Articles 14 and 16 of the Constitution of India. Difference in pay scales based on educational qualification, nature of job, responsibility, accountability, qualification, experience and manner of recruitment does not violate Article 14 of the Constitution of India."

It was reiterated by the Apex Court that principle of equal pay for equal work is not applicable even if duties are of similar nature. The Apex Court has also relied upon the decision in ***Mewa Ram Kanojia Vs. All India Institute of Medical Sciences – 1989 (2) SCC 235: 1989 SCC (L&S) 329*** where it was held:

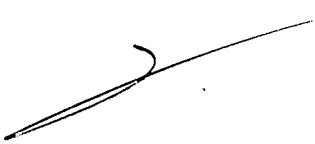
"5. While considering the question of application of principle of Equal Pay for Equal Work" it has to be borne in mind that it is open to the State to classify employees on the basis of qualifications, duties and responsibilities of the posts concerned. If the classification has reasonable nexus with the objectives sought to be achieved, efficiency in the administration, the State would be justified in prescribing different pay scales but if the classification does not stand the



test of reasonable nexus and the classification is founded on unreal, and unreasonable basis it would be violative of Articles 14 and 16 of the Constitution., Equality must be among the equals. Unequal cannot claim equality."

Classification made by a body of experts after full study should not be disturbed except for strong reasons which indicate the classification made to be unreasonable. The earlier decision in ***State of MP Vs. Pramod Bhartiya - 1993(1) SCC 539*** and ***Shyam Babu Verma Vs. UOI 1994 (2) SCC 521*** were also referred to by the Hon'ble Supreme Court TVLN Malikarjuna Rao's case cited supra.

20. Same was the view taken by the Supreme Court in ***Randhir Singh v. Union of India - 1982 (1) SCC 618*** which was followed by the Supreme Court in ***State of U.P. v. J.P. Chaurasia - 1989 (1) SCC 121***. Therefore, it is clear that the application of equal pay for equal work should be assessed, evaluated and determined by an expert body. Since the 6<sup>th</sup> Pay Commission had taken into consideration the representations and suggestions made by different bodies, organizations/associations and since that recommendation was accepted and implemented by the Government as a matter of policy, the Tribunal cannot sit in judgment over the wisdom of the Pay Commission. As stated earlier the entire scheme of pay scales was substituted by a system of pay bands where the existing 35 pay scales were replaced by four running pay bands comprising 20 grades. It was done throughout the country in respect of all Central Government employees. Since the recommendations contained therein are inextricably intertwined, one part of the same cannot be severed or



segregated as it would result in upsetting the whole structure. That is not permissible also. Therefore, we cannot agree with the submissions to the contra made by the learned counsel for the applicants. The plea made by the applicants to refix the scale of pay or re-designate the designations given as per the 6<sup>th</sup> CPC is turned down. Hence, the application is liable to be dismissed.

21. In the result the OA is dismissed but without any order as to costs.

  
(P.Gopianth)  
Administrative Member

  
(N.K.Balakrishnan)  
Judicial Member