

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A. No.1322/94 & O.A.No.276/95

Wednesday this the 26th day of July, 1995.

CORAM:

HON'BLE MR.JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

HON'BLE MR.P.V.VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

O.A.No.1322/94

K.R.Chandrasekharan Kunji,  
Assistant,  
Enforcement Directorate,  
Kozhikode.

... Applicant

(By Advocate Mr.M.R.Rajendran Nair)

vs.

1. The Secretary, Department of Revenue  
Ministry of Finance,  
Central Secretariat,  
New Delhi.

2. The Secretary, Department of Personnel & Training,  
Ministry of Personnel, Public Grievances & Pensions,  
New Delhi.

3. The Director, Enforcement Directorate,  
Government of India,  
Lok Nayak Bhavan,  
6th Floor, Khan Market,  
New Delhi-110 003.

4. The Deputy Director,  
Enforcement Directorate, Shastri Bhavan,  
III Floor, III Block, 26, Haddows road,  
Madras-600 006.

..Respondents

(By Advocate Mr.K.S.Bahuleyan for SCGSC)

O.A.No.276/95

1. Rosamma John,  
Assistant Grade V,  
Regional Passport Office,  
Ministry of External Affairs,  
Ernakulam.

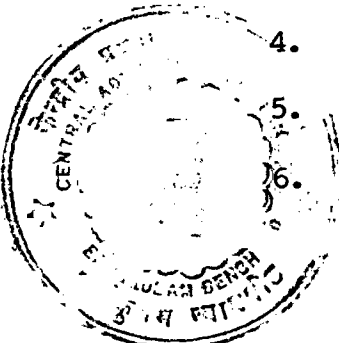
2. Annie Victor, Assistant Grade V, R.P.O. Ernakulam.

3. Lalitha Chacko, Assistant Grade V, R.P.O. Ernakulam.

4. T.P.Leela, Assistant Grade V, R.P.O. Ernakulam.

5. Sarada R.Varma, Assistant Grade V, R.P.O. Ernakulam.

6. Rancy J.C., Assistant Grade V, R.P.O. Ernakulam.



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7. N.A.Saraswathy, Assistant Grade V, R.P.O. Ernakulam.
8. C.G.Rajan, Assistant Grade V, R.P.O. Ernakulam.
9. P.Narayanan, Assistant Grade V, R.P.O. Ernakulam.
10. S.Umadevi, Assistant Grade V, R.P.O. Ernakulam.
11. B.Prasannakumari, Assistant Grade V, R.P.O. Ernakulam.
12. C.I.Chacko, Assistant Grade V, R.P.O. Ernakulam.
13. K.Prasanna Kumari, Assistant Grade V, R.P.O. Ernakulam.
14. P.Sreekumari, Assistant Grade V, R.P.O. Ernakulam.
15. P.Indiramma, Assistant Grade V, R.P.O. Ernakulam.
16. K.S.Raveendran, Assistant Grade V, R.P.O. Ernakulam.

...Applicants

(By Advocate M/s.K.R.B.Kaimal & A.L.George )

vs.

1. The Union of India, represented by the  
Secretary to Government,  
Ministry of External Affairs,  
C.P.V.Division, New Delhi.
2. The Joint Secretary(CPV) & Chief Passport Officer,  
Ministry of External Affairs, New Delhi.
3. Secretary to Government of India, Ministry of Finance, New Delhi.
4. Regional Passport Officer, Ernakulam.

..Respondents

(By Advocate Mr.S.Radhakrishnan, ACGSC)

The application having been heard on 26.7.95, the Tribunal on the same day delivered the following:

ORDER

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN:

Applicants herein, who are Assistants in the Enforcement Directorate and in the Regional Passport Office seek a declaration that they are entitled to be placed in the scale of Rs.1640-2900 with effect from 1.1.1986, granted to similar employees holding "duty posts included in the Assistant Grade of Central Secretariat

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Service and Grade 'C' Stenographers" in that service. To them the scale has been granted by A3 order(O.A.1322/94).

2. The claim is contested by respondents on the ground that applicants do not perform same or similar functions as those covered by Annexure A3. It is also submitted that it is not for the Courts and Tribunals to assess similarity between two groups and apply the principle of equal pay for equal work.

3. As far as the second contention is concerned, respondents are well founded in their submission. It is not for the Courts or Tribunals to compare the nature and duties of different posts and enter a finding of equality or otherwise. The position is well settled by a catena of decisions including Chaurasia's case (AIR 1989 SC 19). As learned counsel for applicants pointed out similarity and or equality have been found between Assistants working in the Enforcement Directorate and elsewhere, by an expert body like the Fourth Pay Commission, who recommended parity of scale. True, the recommendations of Pay Commissions are not binding on the Government, but its views as an expert body can be considered while adjudicating a contention based on the doctrine of equal pay for equal work. More importantly by A7(in O.A.276/95) the Joint Secretary in the External Affairs Ministry (Chief Passport Officer) who is conversant with the matters in question has highlighted the similarity between Assistants in the Passport Offices and the Assistants in the Ministry of External Affairs and had made a strong recommendation to grant the same pay scale to Assistants in the Passport Offices. He observed:

"The last revision mentioned in the para 1 above has given a quantum jump of Rs.240/- at the minimum, itself, to Assistants in the CSS/IFS (B) cadre while previously



there was none. The nature of job and the yard sticks for pay fixation remaining the same as before the last revision the Assistants in the CPO cadre have demanded that there should be parity between their pay scale of the Assistants in the CSS."

We may also notice that the process of selection and qualification are similar(A9 and A10 in O.A.1322/94). Therefore even without adjudicating independently, on the available material it can be held that applicants herein and those covered by A3(O.A.1322/94) are similarly situated.

4. However, in view of the contentions raised by respondents, we will examine whether there are functional differences between Assistants in the Departments where the higher pay scale is granted and between Assistants in the departments before us. Respondents would contend that Assistants in the Ministry are dealing with policy matters and that they have to have knowledge of many matters(para 12, reply statement -O.A.1322/94). We find it difficult to endorse the view that officials at a comparatively lower level like Assistants in the Ministry have anything to do with policy matters in the real sense. That apart, we find(A9 in O.A.1322/94) that the Assistants who are before us and the Assistants who receive a higher scale of pay in other departments are selected by the same process and by the same examination. We notice further that the four persons who secured the first four ranks topping the list were advised for appointment in the Enforcement Directorate, to which applicant in O.A.1322/94 belongs. Besides, it does not stand to reason that Assistants who form the infrastructure at the Ministerial level of almost all Government departments exercise responsibilities of different levels in different departments. It is also common knowledge that the Assistants,

irrespective of the Ministry or Department in which they are posted are posted without even a basic training in the job. That is an indication of the nature of the functions performed and it is also an indication that no high degree of skill is required for them. The arguments put forward by respondents have to be rejected.

5. Then it is said that differentiation based on the mode of recruitment will be a valid basis for classification. It is, if higher qualifications or higher skills are required for one group and not for the other. But in the cases on hand the method of recruitment is the same as we have already noticed from A9 in O.A.1322/94 and so are the qualifications. We are not unaware that there is a quota for direct recruitment and promotion. But, for our purpose that would make no difference. All the Assistants irrespective of the departments/ministries where they work are selected or recruited by the same method by the same standards and by the same examination and thus they are similar.

6. It was argued further that Assistants in the External Affairs Ministry are in Group 'B' while Assistants in the Passport Office are in Group 'C'. This exactly is the grievance of applicants. According to them two classes who are similar are differently treated by dividing them into Group 'B' and 'C'. Therefore the argument of respondents would only establish the case of discrimination and not justify it. It is also admitted before us that those working in the External Affairs Ministry are sometimes transferred to Passport Offices and they do the same work as the Assistants in the Passport Office(para 10 of reply statement in O.A. 276/95).

7. We notice that in similar cases the Principal Bench of this Tribunal had granted reliefs(O.A.1538/87 & O.A.2865/91).



8. In view of the similarity between those covered by A3(O.A. 1322/94) and the applicants herein, we allow the applications and direct respondents to place applicants in the scale of Rs.1640-2900. However we will limit the reliefs by limiting payment of the higher scale from the dates on which the applicants claimed the scale for the first time, though fixation will be with effect from 1.1.1986. Even to the applicants in the applications before the Principal Bench, payment has been ordered only from 1.1.1992.

9. We have also considered the question of the impact this order may make. It may be that there are many officials similarly situated as the applicants herein, but it does not mean that all of them can claim this benefit on the basis of this order. The distinction between the applicants and those who have not made a claim, but have reconciled themselves to their situation, is the distinction pointed out between the two groups of employees in Bhoop Singh's case(AIR 1992 SC 1414).

10. The applications are allowed. Parties will bear their costs.

Dated the 26th July, 1995.

Sd/-  
P.V.VENKATAKRISHNAN  
ADMINISTRATIVE MEMBER

Sd/-  
CHETTUR SANKARAN NAIR(J)  
VICE CHAIRMAN

CERTIFIED TRUE COPY

Date 2.8.95

Deputy Registrar

njj/27.7



List of Annexures

OA-1322/94

Annexure -A3: True copy of the office memorandum No.2/1/90-CS.TV dated 31.7.1990 issued by the 2nd respondent.

Annexure-A9: True copy of the Notice dated 17.11.1990 issued by the Staff Selection Commission.

AnnexureA10: True copy of the letter No.F.9/2/87/Rectt. N.R. dated May, 1989 issued by the Staff Selection Commission.

OA-276/95

Annexure A-7: True copy of D.O. letter No.V.IV 652/1191 dated 12.8.91 issued by 2nd respondent to Addl. Secretary (EXP) Ministry of Finance

