

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.32/2002

FRIDAY THIS THE 1st DAY OF OCTOBER, 2004.

C O R A M

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.H.P.DAS, ADMINISTRATIVE MEMBER

1. All India Naval Clerks Association
represented by its General Secretary, K.S.Babu,
UDC, Southern Naval Command, Kochi.
2. N.Devi, Assistant, Headquarters,
Southern Naval Command, Kochi-4.
3. M.T.Paul, Assistant, Material Organisation,
Naval Base, Kochi.
4. Sarala G.Nair, Assistant
Naval Aircraft Yard, Naval Base, Kochi.
5. Sankarai Ammal, Assistant
INS Venduruthy Naval Base, Kochi.

Applicants

By Advocate Mr.S. Radhakrishnan

Vs.

1. Flag Officer Commanding-in-Chief
Southern Naval Command, Kochi-4.
2. Union of India represented by
The Secretary to the Govt of India
Ministry of Finance, New Delhi.
3. Administrative Officer Grade II
Civilian Administrative Office
Headquarters, Southern Naval Command, Kochi-4.

Respondents

By Advocate Mr.C.Rajendran, SCGSC

The Application having been heard on 30.6.2004 and the
Tribunal delivered the following on 1.10.2004

O R D E R

HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER.

The short point at issue in the application is whether
Assistants in the Navy should be granted pay parity with
Assistants in the Central Secretariat, and some of its attached

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and subordinate offices. The applicants have compiled an impressive array of historical and judicial precedences to lend substance to their claim for parity. But all this is of no avail unless evidences establishing their very basic status in the eyes of law are produced. We find from the reply statement of the respondents that the Assistants of the Navy were at no point of time comparable with the Assistants in Central Secretariat since they did not belong to the category of Assistants at all, until the Vth Pay Commission redesignated the post of Office Superintendent Grade-II as Assistants and gave them the upgraded scale of Rs.5000-8000 instead of the replacement scale of Rs.4500-7000 (which corresponded to the scale Rs.1400-2300 in which OS Grade-II was placed). Since the post of Office Superintendent was in a scale lower than Assistant until the Vth Pay Commission, it has to be accepted that there was no case for parity until that point of time. The Vth Pay Commission created the designation in Navy and granted the pay scale of Rs.5000-8000. Now, by this application the applicants are seeking pay parity with Assistants in the Central Secretariat who have been placed in the scale of Rs.5500-9000, claiming equality of status. This is not the right forum to declare the equality of status. While dealing with the question of parity of pay scales in the case of State of UP & Others Vs. J.P.Chaurasia & Ors (1989 SC(L&S) 71), the Apex Court had relied on its earlier decisions in the case of Bhagwandas Vs. State of Haryana (1987(4) SCC 634) and had observed as follows:

"...Primarily it requires among others, evaluation of duties and responsibilities of the respective posts. More often functions of two posts may appear to be the same or similar, but there may be difference in degrees in the performance. the quantity of work may be the same, but quality may be different that cannot be determined by relying upon averments in affidavits of interested parties. The equation of posts or equation of pay must be left to the Executive Government. It

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must be determined by expert bodies like Pay Commission. They would be the best judge to evaluate the nature of duties and responsibilities of posts. If there is any such determination by a Commission or Committee, the court should normally accept it. The court should not try to linked with such equivalence unless it is shown that it was made with extraneous consideration."

2. Where is the evidence of extraneous consideration in the present case? Further, in its judgment in O.A 144-A of 1993, the Principal Bench of the Central Administrative Tribunal had listed out some situations in which interference by the Tribunal would be justified for the purpose of providing justice to the aggrieved. Three main situations listed by the Principal Bench were as follows:

(i) The Pay Commission omitted to consider the pay scale of some posts of any particular service.

(ii) The Pay Commission recommended certain scales based on no classification or irrational classification.

(iii) After recommendation of the Pay Commission is accepted by the Government, there is unjust treatment by subsequent arbitrary state action or inaction. In other words, the subsequent state action or inaction results in favourable treatment to some and unfair treatment to others.

3. The case of the applicants do not fall into any of the situations. Nor have the applicants showed us any concrete situation in which they have been prejudicially treated in the application of the Vth Pay Commission Recommendations. On the contrary, they have been treated favourably by raising them to the scale of Assistants from the lower scale of Office Superintendent-II by redesignating the post and by granting a higher scale instead of giving the usual replacement scale (which is lower than the Assistant's scale). Given the background that the Office Superintendent-II of Navy never enjoyed a scale equivalent to that of Assistant, they would now be in no position to claim the higher scale of Assistants in

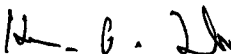
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Central Secretariat. None of the judicial decisions cited by them would for this reason be applicable, as in all those cases the courts have decided the matter with reference to a factor of historical continuity as the basis of equivalence.

4. We find from A3 that the Naval Headquarters in consultation with the Ministry of Defence have decided not to accept the demand of Assistants in Navy for equivalence with Assistants in Central Secretariat on the ground that the Vth Central Pay Commission has not accepted the demand for absolute parity. The Vth Central Pay Commission in para 46.9 of the recommendations has held that Assistants in Central Secretariat enjoy an edge of advantage over Assistants in Subordinate Offices. The respondents are also not inclined to recognise that there is any functional comparability between the applicants and the Assistants of Central Secretariat. We are unable to interfere because we do not see any extraneous consideration in not granting parity, or any arbitrary state action in depriving the applicants of a legitimate benefit. That being the case, the only course open for the applicants would be to persuade the appropriate executive authorities to secure for them the desired equivalence from the next Pay Commission in appropriate time.

5. In the result, we dismiss the application, with liberty to the applicants to approach the appropriate executive authorities or the next Pay Commission on the basis of more material evidence to substantiate their claim. No costs.

Dated 1.10.2004.


(H.P.Das)
Administrative Member


(A.V. Haridasan)
Vice Chairman.