

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

Original Application No. 422 of 200-8

This the 09th day of February, 2012

**Hon'ble Mr. Justice Alok K Singh, Member-J
Hon'ble Mr. S.P. Singh, Member-A**

1. Narsingh Bahadur Singh, S/o Late Bharat Singh.
2. Kunwar Rajni Kant, S/o late Rajveer Prasad.
3. Bharat Lal, S/o Sri Shyam Sunder Verma.
4. Sharju Ram, S/o late Sukhai Ram.
5. Munni Lal, S/o Sri Jittu Vishwakarma.
6. Bhagwat Singh, S/o Sri Mauni Ram Singh.
7. Panna Lal, S/o Late Babu Nandan Ram.
8. Prem Bihari Srivastava, S/o Late B.P. Srivastava.
9. Anjan Kumar Baneerjee, S/o late N.C. Banerjee.
10. Girish Chandra Lohani, S/o late B.D. Lohani.
11. Mahesh Kumar, S/o Late P.L. Srivastava.
12. I.A. Malik S/o Sri Neeraj Ahmad Malik.
13. Noor Fatima, D/o Late W.H. Jusaini.

All employed as Store Keeper/Accounts Clerk in the office of Development Commissioner (Handicrafts), Central Region, Lucknow.

.....Applicants

By Advocate : None

Versus.

1. Union of India through the Secretary, Ministry of Textiles, Government of India, New Delhi.
2. The Development Commissioner (Handicrafts), West Block, 7 R.K. Puram, New Delhi.
3. The Regional Director, Central Region, Office of Development Commissioner (Handicrafts), Kendriya Bhawan, 7th Floor, Sector 'H', Aliganj, Lucknow.

.....Respondents.

By Advocate : Sri S.P. Singh

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O R D E R (Oral)

By Justice Alok K Singh, Member-J

This O.A. has been filed for the following relief(s):

"(i) to issue a writ, order or direction in the nature of certiorari directing the respondents to quash their order dated 26.12.2007(Annexure -1) rejecting the petitioners' claim for granting upgraded pay scale of Rs. 5000-8000/- under ACP II Scheme.

(ii) to issue a writ, order or direction in the nature of Mandamus directing the respondents to grant same upgraded pay scale of Rs. 5000-8000/- under ACP II scheme which have been granted to other similarly placed incumbents Store Keeper/Accounts Clerk.

(iii) to issue any other suitable writ, order or direction, in facts and circumstances of the case, which this Hon'ble Tribunal may deem fit and proper.

(iv) To award cost of the petition to the applicants.

2. Keeping in view the facts and circumstances mentioned in today's order-sheet after revision of cause list when nobody responded for applicant, arguments were heard on behalf of the respondents and this judgment/order is being dictated in open court finally deciding this O.A.

3. The case of the applicants is that they came to know that due to variations in Recruitment Rules of Store Keeper/Accounts Clerk (In short Sk/Ac) appointed under erstwhile different scheme, they are being discriminated. They, therefore, made a representation dated 8.9.2005 for giving parity in the pay scale on the footing of 'Equal Pay for Equal Work'

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(Annexure-6), but no action was taken by the respondents. Therefore, they submitted a reminder dated 4.10.2007 (Annexure-7) followed by another representation dated 5.12.2008 (Annexure-8). Then ultimately, the Development Commissioner (Handicrafts), New Delhi informed to all the applicants individually that their request has not been found acceptable and finally turned down the applicants' representation vide order dated 26.12.2007, which has been impugned in this O.A., hence this O.A.

4. The claim has been contested by the respondents by filing a detailed Counter Reply saying that the recruitment rules were framed scheme-wise for their promotion in next higher scale as per hierarchy. The Sk/Ac of Carpet Scheme were placed for Accounts cadre and the Sk/Ac for other scheme like Metal Scheme and Hand Block printing training scheme were placed for market supporting scheme. The seniority list of Sk/Ac was separate in all the schemes. The promotions of Sk/Ac were made as per recruitment rules on the basis of their hierarchy at the time of running of the schemes. The promotion channel of all the above have been given in tabular form in para 2 of the Counter Reply, which is as below:

S. No.	Sk/Ac in Carpet Scheme	Revised Pay grade	Revised pay band	Revised pay grade
1.	Sk/Ac	3050-4590	5200-20200	1900
2.	Store Keeper	4000-6000	5200-20200	2400
3.	Jr. Accountant	4500-7000	5200-20200	2800
4.	Sr. Accountant	5500-9000	9300-34800	4200

The Promotional channel of Sk/Ac other than Carpet Scheme like Handicrafts Metal training Scheme and Hand Block Printing scheme are given below:

S. No.	Sk/Ac in other than Carpet Scheme	Revised	Revised	Revised
1.	Sk/Ac	3050-4590	5200-20200	1900
2.	Store Keeper	4000-6000	5200-20200	2400
3.	Investigator	5000-8000	9300-34800	4200
4.	HPO	5500-9000	9300-34800	4200

In respect of the representation made by the applicants, it has been stated that the department has also made their efforts for up-gradation by way of submitting a detailed report. But the Department of Expenditure, the Ministry of Finance has rejected the claim of the applicants after due consideration and clarification regarding nature of duties expected from incumbents to the posts referred to them as above.

5. The applicants filed Rejoinder Reply reiterating the pleadings contained in the O.A. and refuting the contentions made in the Counter Reply.

6. Supplementary Counter Reply has also been filed enclosing therewith a copy of judgment and order dated 1.2.2010 rendered by Chandigarh Bench of this Tribunal in O.A. no. 172 of 2007 (O.A. No. 399-JK-2009). The facts of that O.A. were that the applicants have been working as Store Keeper-cum-Accounts Clerk in the department of Handicrafts for the last 27

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years. There were different wings in the Department like Carpet Scheme, Hand Block Training, Textile Division, Cane and Bamboo Metal and Marketing Division. The applicants' claim was that the recruitment rules for the post of Store Keeper-cum-Accounts Clerk is identical in all the schemes and nature of job and, therefore, there should be no discrimination in granting ACP scheme (II). The claim was contested by the respondents in that O.A. on the ground that the nature of duties expected from the applicants to the post of Junior Accountant and those posted as Investigator would be different and promotion from the feeder post with same designation/pay scales did not justify the up-gradation of the post of Junior Accountant at par with that of Investigator as the posts are in two distinctly different schemes. The department did recommend the case of the applicants for pay parity, but the Ministry of Finance rejected the same. It was further contended that the claim of the applicants was not in conformity with the rule position. The service conditions contained in Recruitment rules do not permit the department to agree to the grievance of the applicants as both categories are governed under different set of rules. After going through the relevant pleadings, the Tribunal also perused the observations of the Ministry of Finance which were made while rejecting the claim of those applicants. Those observations were extracted in para 8 of the judgment, which is as under:

"The proposal has been examined. It has been observed that the post of Investigator was granted the higher pay scale of Rs. 5000-8000/- on the specific recommendations of 5th CPC. The 5th CPC recommended the higher pay scale due to the fact

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that the Graduates are directly recruited to the post of Investigators. While there is no direct recruitment in the post of Junior Accountant from the post of Store Keeper (which is matriculate) in the relevant RRs. Therefore, the posts of Jr. Accountant and the post of Investigators are not comparable either in terms of qualification or mode of recruitment.”

The Tribunal found that the claim of the applicants though recommended by their own department (as has been done in the present case) were not accepted by the Ministry of Finance for twin reasons of element of direct recruitment of Graduates as Investigators, which is not so in case of Junior Accountant and secondly Store Keepers with qualification of Matriculation, are promoted as Junior Accountant. Thus, it was found that there is difference in qualifications as well as mode of recruitment. Finally, the Tribunal observed that the determination of pay scales or up-gradation of posts is a complex issue and essentially falls within the domain of executive power of the State and should be left to be done by the expert bodies like Pay Commission because Tribunal/Courts are not having expertise in such matters. The Tribunal also referred to the case of State of U.P. & Others Vs. U.P. Sales Tax Officers Gr.II association (1997) 3 SCC and 2003 (6) SCC 250 wherein it has been held that the Pay Commission is not to be subjected to judicial review unless blatant discrimination is made out. Finally, the O.A. was dismissed.

7. After going through the pleadings of this O.A. and the aforesaid observations made by Chandigarh Bench of this Tribunal, we do not find any good ground to

take a different view in the matter. We also reiterate that the determination of pay scales or up-gradation of posts is a complex issue and essentially falls within the domain of executive power of the State and should be left to be done by the expert bodies like Pay Commission and Tribunal/Courts are not having expertise in such matters. Otherwise also, as mentioned above the claim of the applicants were recommended by their own department, but it was not accepted by the Ministry of Finance, which is a nodal Ministry.

8. In view of the above, the O.A. appears to be devoid of any merit. Therefore, it is liable to be dismissed and accordingly it is so ordered. No costs.



(S.P. Singh)
Member-A

Girish/-



Alok Kumar Singh
(Justice Alok K. Singh)
Member-J