

(7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 297/87

198

T.A. No.

DATE OF DECISION 21 /12/1990

Shri Soma L.Raut and three Petitioner
others.

Shri C.U.Singh Advocate for the Petitioner(s)

Versus

1) Union of India 2) The Administrator Respondent
of Goa, Daman and Diu 3) The Inspector General
of Police, Govt. of Goa, Daman & Diu Advocate for the Respondent(s)
Shri M.I.Sethana, Senior Counsel

CORAM

The Hon'ble Mr. N.Sengupta, Member(J)

The Hon'ble Mr. M.Y.Priolkar, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
 2. To be referred to the Reporter or not ? *No*
 3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
 4. Whether it needs to be circulated to other Benches of the Tribunal ? *No*
- [Signature]*

(8)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
CIRCUIT SITTING AT PANAJI(GOA)

O.A.297/87

Shri Soma L.Raut and
three others.

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Applicant

vs.

1.Union of India

2.The Administrator
of Goa, Daman and
Diu

3.The Inspector General
of Police, Govt. of Goa,
Daman & Diu.

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Respondents.

Appearances:

Mr.C.U.Singh Advocate
for the applicants.

Mr.M.I.Sethana, Senior
Counsel for the respondents.

Coram: Hon'ble Shri N.Sengupta, Member(J)

Hon'ble Shri M.Y.Priolkar,
Member(A)

Dated: 21/12/1990

JUDGEMENT

(Per Shri M.Y.Priolkar).

The applicants in this case are Matriculate Police Constables of the Government of Goa. At the time of filing of this application on 20-4-1987, they were in the employment of the Police Department of the Union Territory of Goa, Daman and Diu. They have the grievance that although two separate scales of pay for Matriculate and non-Matriculate constables, respectively, were prescribed in other Union Territories like Delhi and Pondichery from 1-1-1973,

only one scale of pay, which is the lower scale, has been sanctioned for both Matriculate and non-Matriculate Constables in Goa, Daman and Diu.

2. The Police Department of the Government of Goa, Daman and Diu was formed in 1962 after liberation of this territory from Portuguese rule. In 1966, the Police Department (Non-Gazetted posts) Recruitment Rules 1966 were ~~identified~~ ^{notified} under which the educational qualification prescribed for armed constables was the fourth standard in primary school and that for constables in the executive wing, the sixth standard in primary school or the second standard in English in a secondary school. At the relevant time, the Union Territory of Delhi as also some other Union Territories had both Matriculates and non-Matriculate constables in their employment, with the result that the Third Central Pay Commission in 1973 recommended separate scales of pay for Matriculate and non-Matriculate Constables in the Union Territories of Delhi, Pondichery and Andaman & Nicobar Islands but only the lower scale fixed for non-Matriculate constables in other Union Territories was recommended for Goa, Daman and Diu since there were no Matriculate Constables in this Union Territory at that time. In 1976, however, new Recruitment Rules, namely, Government of Goa, Daman and Diu, Office of the Inspector General of Police (Group D Posts) Recruitment Rules, 1976, were promulgated prescribing a minimum qualification of S.S.C.E. or its equivalent for both armed and unarmed constables. Thus, after these new Recruitment Rules came into force in 1976, the Police Department of Goa, Daman and Diu had both Matriculate and non-Matriculate

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constables on its rolls.

3. According to the applicants, the Fourth Central Pay Commission which gave its Report in 1986, merely adopted the earlier scales of pay and upgraded the same with the result that other Union Territories like Delhi, Pondichery and Andaman & Nicobar Islands continue to have two separate scales of pay for Matriculate and non-Matriculate Constables, i.e. Rs. 950-1400 and Rs. 825-1200 applicable to non-Matriculいたes was prescribed for Constables of Goa, Daman and Diu although there were both Matriculate and non-Matriculate constables in this Union Territory also from 1976. These recommendations of the Fourth Pay Commission were accepted by Government and implemented by the impugned Notification dated 13-9-1986. The applicants contend that the sole ground for granting the higher scale of Rs.950-1400 to constables in the Union Territories of Delhi, Pondichery and Andaman and Nicobar Islands is that they are Matriculate Constables and that this is confirmed by a wireless message dated 17-1-1987 from the Deputy Commissioner of Police (Head Quarters) Delhi to the third respondent. The applicants also contend that the functions and duties performed by Matriculate constables in the Union Territories of Delhi, Pondichery and Andaman & Nicobar Islands, and in Goa, Daman and Diu are identical in all material respects. The applicants, therefore, submit that denial of equal pay to Matriculate police constables in the Union Territory of Goa, Daman and Diu as compared to similarly placed persons in other Union Territories is in violation of Articles 14 and 16 of the Constitution and pray for a direction to the respondents to place the applicants in scales equivalent to those of Matriculate constables in the

Union Territory of Delhi right from the inception of their appointments.

4. The only ground on which the application is opposed by the respondents is that it is time barred, since the new scale prescribed by the Fourth Pay Commission was based upon the corresponding existing pre-revised scale which had been in force from 1-1-1973 pursuant to the Third Pay Commission's recommendations, and the applicants cannot challenge it by filing an application in April 1987. The learned Counsel for the applicants argued that the applicants were aware of this discrimination against them only when a copy of the notification dated 13-9-1986 issued by Government of India accepting the revised scales of pay as recommended by the Fourth Pay Commission had come to their notice. He also cited a judgement of this Bench in Transferred Application No. 93/87(unreported) at its Goa sitting on 14-4-1989 where the applicants in that case, who were Cobblers (Mochis) in the Police Department of Goa were directed to be given a higher pay scale from 1-1-1973(with arrears from 1-10-1982), based on Supreme Court decision in the case of Randhir Singh v Union of India (AIR 1982 SC 879) wherein the Supreme Court had awarded a higher pay scale to the petitioner in that case with effect from 1-1-1973 by applying the doctrine of equal pay for equal work.

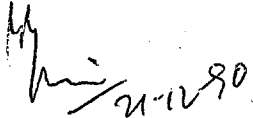
5. It is now well settled by a catena of decisions of the Supreme Court that person performing the same functions and duties are entitled to the same pay regardless of which department they are employed in. The respondents are not able to give any justification for not giving the higher pay scale prescribed for Matriculate constables in other Union Territories

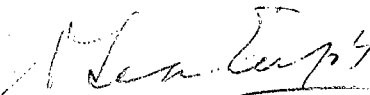
to the applicants before us, who are also Matriculate Constables performing similar duties. Treating them differently would, in our view, amount to discriminating them arbitrarily from other similarly placed employees in other Union Territories.

6. The applicants have produced before us the order dated 2.3.1990 issued by Government of Goa conveying their approval to the revision of the pay scale of the Matriculate Police Constables from Rs. 825-1200 to Rs. 950-1400. This order takes effect from the date of issue, i.e. 2.3.1990. The grievance of the applicants which still subsists is that this revision should be made effective from the inception of their appointments. There is also some merit in the respondents contention that since the cause of action, if any, in this case has arisen in 1976 when the minimum educational qualification in the recruitment rules was raised to Matriculation but still, the earlier pay scale was retained, the application should be rejected as barred by limitation of time prescribed under Section 21 of the Administrative Tribunals Act, 1985. The applicants contend that their application is against the specific orders dated 13-9-1986, when this discrimination had come to their notice for the first time. We do not consider this as a satisfactory explanation of the delay in filing the application, since the Pay Commission Reports are published documents and with a little more diligence, it should have been possible for the applicants to secure a copy of the Third Pay Commission's Report and the Government orders thereon. However, taking an overall and lenient view of the facts and circumstances of this case, we feel that the ends of justice will be met if the prayer of the applicants to place them in the pay scale approved for the Matriculate constables in the Union Territory of Delhi is granted from 1-1-1986,

that is, the date from which the Fourth Pay Commission's recommendations were implemented.

7. On the basis of the foregoing discussions, we direct that the applicants shall be held to be entitled to the revised pay scale of Rs. 950-1400 with effect from 1-1-1986 instead of from 2-3-1990 as stipulated in the Goa Government's order dated 2-3-1990. They shall be entitled to arrears of the difference in pay and allowances and any other consequential benefits, from that date. There shall be no order as to costs.


(M.Y. Priolkar)
Member(A)


(N. Sengupta) 21.12.90
Member(J)