(12) 14/2/90

orders passed

(N. V. Krishnan)
Hon M(A)

(G. Sreedharan Nair
Hon V.C.

(#) (13)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH, NEW BOMBAY

Date of decision 14.2.1990

(1) Registration No.T.A. 114 of 1986

Ramanbahai M. Patel .. Applicant

(2) Registration No.T.A. 115 of 1986

Snehavadan Chimanlal Patel .. Applicant

(3) Registration No.T.A.116 of 1986

Shantilal Ratilal .. Applicant

(4) Registration No.T.A. 117 of 1986

Bhikhabhai Govindbhai Valand .. Applicant

(5) Registration No.T.A.118 of 1986

Gajanaj V. Pathak .. Applicant

(6) Registration No.T.A.121 of 1986

Smt. Urvashi Dhirubhai Naik .. Applicant

(7) Registration No.T.A.122 of 1986

Kum. Kokilaben M. Vashi .. Applicant

(8) Registration No.T.A. 123 of 1986

Natwarlal M. Patel .. Applicant

(9) Registration No.T.A. 124 of 1986

Sidikali A. Shaikh .. Applicant

(10) Registration No. 127 of 1986

Khandubhai N. Naik .. Applicant

(11) Registration No.TA 12[illegible] of 1986

Navin M. Patel .. Applicant

(12) Registration No. T.A. 129 of 1986

Dhirubhai R. Patel .. Applicant

(13) Registration No.TA 158 of 1986

G.C.Patel .. Applicant

- versus-

Union Territory of Dadra & Nagar Haveli and others .. Respondents in all cases.

CORAM : Hon'ble Shri G.Sreedharan Nair, Vice-Chairman
Hon'ble Shri M.Y. Priolkar, Member(A)

Counsel for the applicants : Mr. D.V. Gangal.

Counsel for the respondents : Mr. M.I. Sethna.

ORDER

G.Sreedharan Nair, Vice-Chairman :- These applications were heard together and are being disposed of by a common order.

2. The applicants are employees in the Vocational Schools under the Education Department, Dadra and Nagar Haveli Administration. The respondents in these applications are the Union of India and the Administration of the Union Territory of Dadra and Nagar Haveli.

3. The applicant in T.A.158 of 1986 is a Carpentry Teacher, the applicant in T.A.115 of 1986 is a Carpentry Demonstrator, the applicant in T.A. 114 of 1986 is a Craft Teacher, the applicant in T.A. 117 of 1986 is a Moulding Instructor (Craft Teacher), the applicants in T.A. 121 of 1986 and 122 of 1986 are Tailoring Teachers, the applicants in T.A.127 of 1986 and T.A.128 of 1986 are Assistant Teachers (Drawing), the applicants in T.A.123 of 1986 and T.A.129 of 1986

are Physical Education Teachers, the applicants in T.A.116 of 1986 and T.A.118 of 1986 are English Language Teachers in Secondary Schools and the applicant in T.A. 124 of 1986 is a Shorthand Typewriting Instructor.

4. The grievance of these applicants relates to denial of the upgradation of the scale of pay of Junior Teachers in Craft, Language, Music, Dance, Physical Education and Domestic Science from Rs.425-640 to Rs.440-750 by the Presidential Sanction conveyed by the Ministry of Education and Culture, Government of India to all the Union Territories (except Chandigarh) by the communication dated 27.3.1982. While some of the applicants were holding the scale of Rs.425-640, for instance the applicant in T.A.124 of 1986, some of them were only in the scale of pay of Rs.330-560, for instance the applicants in T.A.158 of 1986, T.A.114 of 1986, TA 116 of 1986 etc. They have the further grievance that with the introduction of the benefits under the Third Pay Commission report with effect from 1.1.1973, they should really have been fitted in the scale of Rs.425-640. The grievance of the applicant in T.A.158 of 1986 extends a step further that by the revision effected on 1.3.1970, the scale of pay has been reduced from what he was drawing. This grievance is urged by the applicant in T.A.123 of 1986 also.

5. Such of those applicants, who were not enjoying the scale of Rs.425-640 have urged that it is on account of anomalies in their fixation of pay that it has not been done and after rectifying the same, they should also be allowed the benefit of the upgradation as a result of the

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Presidential sanction contained in the communication dated 27.3.1982.

6. In this context reference is made by the applicants to the various revisions of the pay-scales Originally what is known as 'the Gujarat Pay-Scales' were in force. They were revised with effect from June 1967 under what is known as "the Sarela Pay-Scales" followed by the introduction of the Central Pay-Scales in March, 1970. Immediately, thereafter with effect from May, 1970, there has been a revision by the S.S.Rai Pay-Scales and lastly, with the introduction of the scales of pay on the basis of the recommendation of the Third Pay Commission with effect from 1.1.1973.

7. The main ground urged by the applicants is that no discrimination can be practised among the Teachers in the Central Schools of the various Union Territories in view of Articles 14 and 39 of the Constitution of India.

8. Replies have been filed on behalf of the second respondent, namely, the Administration of the Union Territory of Dadra and Nagar Haveli. The Union of India has not filed any reply. Though it is contended in the replies that the claims of some of the applicants for fitting them in the scale of Rs.425-640 cannot be allowed at this stage on account of the delay and laches on their part, and as such the benefit of the upgradation under the Presidential sanction conveyed by the letter dated 27.3.1982 is not available to them, it having been allowed only for those Teachers holding

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the scale of Rs.425-640, it is admitted that in view of the representations submitted by the applicants, the Administration had brought this matter to the attention of the first applicant when the Administration was directed to refer the same to the Fourth Central Pay Commission and accordingly the grievances of the applicants and similarly situated Teachers have been brought before the attention of the Fourth Central Pay Commission.

9. From what is stated above, what emerges is that the second respondent is satisfied about the anomaly in the pay of the applicants and their consequent grievance on that account. Indeed, a report recommending their case has been submitted to the Fourth Central Pay Commission. However, the Fourth Central Pay Commission has only recommended the replacement scales for the School Teachers and has not considered this aspect.

10. There is a specific averment in some of the applications that since the applicants who are doing the same work as their counterparts in other Union Territories, especially in Union Territory of Goa, Daman and Diu which is also under the same Governor, the denial of the scales allowed to their counterparts in those Union Territories is per se discriminatory and violative of Article 14 of the Constitution of India. Reliance is also placed ~~by him~~ on Article 39 of the Constition of India embodying the doctrine of 'equal pay for equal work', and the various decisions of the Supreme Court mandating the same. These ~~submissions~~ were not really countered by counsel of the second respondent. His submission was that the matter is engaging the attention of the Union of India

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and that the second respondent has recommended the rectification of the anomaly.

11. It is on record that by the communication dated 9.3.1987 from the Ministry of Human Resources Development (Department of Education) to the second respondent, it has been intimated that the revision of the pay-scales has been considered by the Ministry but it is felt that the proposal may be deferred for the time being since such anomalies will be automatically removed when action is taken on the recommendation of the National Commission on Teachers-I. However, it has not been brought to our attention that even after the recommendations of the said Commission, any decision has been taken with respect to the question that is involved in these applications, namely, the alleged discrimination with respect to the Junior Teachers in the Union Territory of Dadra and Nagar Haveli and the denial of the Presidential sanction for the upgradation of the scales of Rs.425-640 to Rs.440-750 to such teachers in Union Territories. The allied question with respect to the fitment of some of these applicants in the scale of Rs.425-640 instead of Rs.330-560 also requires examination,

12. It is also on record that the Committee on Petitions (8th Lok Sabha) in its 11th report dated 31st July, 1989 has referred to the anomalies in the pay-scales of certain miscellaneous categories of Teachers like Draft Teachers, Music Teachers and Language Teachers, etc., in the Union Territory of Dadra and Nagar Haveli. They have referred to the admission by the Department of Education that there are anomalies. The Committee has recommended that after getting necessary

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clarifications from the Ministry of Finance, the scales of these Teachers may be revised or refixed keeping in view the position obtaining in other Unior Territories.

13. In the circumstances, we are of the view that a proper assessment of the issue has to be done by the first respondent without further delay as it is patent that the matter has been unduly delayed. Such assessment has to be done having regard to the settled proposition of law that there shall be no discrimination among the employees in the various Union Territories, doing the same job, of which the job requirements are the same and for which the qualifications for recruitment are also identifical, and with due respect to the doctrine of 'equal pay for equal work' as enshrined in the Constitution of India and as propounded by the law laid down by the Supreme Court. This shall be done within four months from the date of receipt of copy of this order.

14. These applications are disposed of as above.