

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 129/99

Date of Decision : 31st October 2002

D.G.Tikhe & Ors.

Applicant

Shri S.V.Marne

Advocate for the
Applicant.

VERSUS

Union of India & Ors.

Respondents

Shri V.G.Rege

Advocate for the
Respondents

CORAM :

The Hon'ble Shri S.L.Jain, Member (J)

The Hon'ble Smt.Shanta Shastry, Member (A)

- (i) To be referred to the reporter or not ? *yes*
- (ii) Whether it needs to be circulated to other *no*
Benches of the Tribunal ?
- (iii) Library *yes*

S.L.Jain
(S.L.JAIN)
MEMBER (J)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.129/99

Dated this the 31st day of October 2002.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Hon'ble Smt.Shanta Shastri, Member (A)

1. D.G.Tikhe
2. S.R.Kumbhar
3. D.A.Fernandes
4. Krushnayya Balappa
5. J.P.More
6. V.R.Gawade

...Applicants

All are working as Security
Guards under Central Water &
Power Research Centre,
Khadkwasla, Pune.

By Advocate Shri S.V.Marne

vs.

1. Union of India
through the Secretary,
Ministry of Water Resources,
New Delhi.
2. The Director In-charge,
Central Water and Power
Research Centre,
PO : Khadakwasla Research
Station, Pune.

...Respondents

By Advocate Shri V.G.Rege

..2/-

P. V. Rege —

O R D E R

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act, 1985 for the declaration that the applicants are entitled to the pay scale of Rs.825-1200 from the date of their appointments and channel of promotion at par with the Security Guards working on the Farakka Barrage Project on principle of "Equal Pay for Equal Work" and equality before law.

2. At the commencement of hearing, the learned counsel for the applicants stated that as the scale claimed by the applicants is the same awarded to Farakka Barrage Project Security Guards w.e.f. 1.1.1986, therefore, he restricts his claim w.e.f. 1.1.1986 and not w.e.f. date of appointments of the applicants.

3. To get the avenue of promotion at par with Security Guards in the Farakka Barrage Project, this being the distinct relief, it cannot be agitated in the present OA. If allowed to agitate, it would be contrary to CAT (Procedure) Rules, 1987 being multiple reliefs. As such, the learned counsel for the applicants has elected to agitate the relief regarding pay scale and liberty is granted to the applicants to agitate the relief in separate OA. regarding creation of channel of promotion as per Security Guards in the Farakka Barrage Project.

S.L.Jain —

..3/-

4. The applicants claim that Recruitment Rules for the post of Security Guards in the Central Water & Power Reserach Station (C.W.P.R.S.) provides for pay scale of Rs.750-940. The essential qualifications for appointment of Security Guards is VIIIth Std. or equivalent and Defence Service Examination with one year defence service or 8th Std. with experience of Security Guard or Watchman in the large Industrial Establishment. Farakka Barrage Project which is controlled by the Ministry of Water Resources who were previously granted the pay scale of Rs.750-940 filed an OA. based on Security Guards in the Government Mint at Bombay and Calcutta claiming the scale of Rs.825-1200 before CAT Bench, Calcutta (OA.No.81/87) which was allowed vide its order dated 10.9.1987 granting the pay scale of Rs.825-1200 w.e.f.1.1.1986 and the said order was implemented by the respondents. The respondents rejected the requests of the applicants. The JCM also failed to consider the same and their request was rejected on 23.5.1994. The nature of duties and responsibilities of Security Guards in Central Water & Power Research Station, Farakka Barrage Project and Govt. Mints are similar to the applicants therefore the applicants are entitled to be granted the higher pay scale at par with Security Guards of Farakka Barrage Project. The respondents themselves have compared the Security Guards in C.W.P.R.S. and in Farakka Barrage Project. The duties and responsibilities being similar, the benefit is denied which violates Article 14 & 16 of the Constitution.

ALSM /

..4/-

5. It is true that as per Recruitment Rules the qualification for C.W.P.R.S. for Security Guards is 8th Std. or equivalent and Defence Service Examination with one year defence service or 8th Std. with experience of Security Guard or Watchman in large industrial establishment while Recruitment Rules which applies to Farakka Barrage Project, the essential qualification for Security Guards is literate, desirable 8th Std. passed and no previous experience is required. Thus, it is apparent that the required qualification in C.W.P.R.S. educational qualification is higher than Farakka Barrage Project. This cannot be the sole ground for parity in pay scale but can be one of the grounds for the said relief.

6. Regarding the duties and responsibilities, the learned counsel for the applicants relied on Annexure-A-1 letter No. 630/75 (C)/2002-Adm. dated 29.1.2001 (OA. Page 83 & 84) and argued that the duties and responsibilities of the Security Guards of C.W.P.R.S. and those of Farakka Barrage Project are not only the same but also those of C.W.P.R.S. are slightly higher than that of Farakka Barrage Project as the residential area of Farakka Barrage are not covered security set up, though the residential area are covered in the duties of security Guards of C.W.P.R.S. This being a recommendary letter by Chief Administrative Officer of Khadakwasla, who cannot be termed as an expert body therefore his opinion has no relevance.

Rel. M. -

..5/-

7. The learned counsel for the respondents relied on 2002 (SCC) (L&S) 822 - State of Haryana & Ors. vs Haryana Civil Secretariate Personnel Staff Association, wherein it has been held that equal pay for equal work is not a fundamental right of an employee although it is a constitutional goal, the fixation of pay scale and claim to parity in pay scale is to be determined by executive while taking a decision in this matter, several factors have to be considered amongst which financial capacity of the Government and priority given to different types of posts under the prevailing policies of the Government are also relevant factors. Court should interfere with administrative decision pertaining to pay parity only when they find such a decision is irrational, unjust and prejudicial to a section of employees and taken without considering various material and various factors. Keeping in view the said proposition in mind, if we examine the present case the Vth Pay Commission has granted to the applicants only the substitute pay scale of Rs.750-940. The expert body has assessed the matter and has arrived to a conclusion not favourable to the applicants.

8. The learned counsel for the respondents relied on 2001 SCC (L&S) 56 - Union of India vs. Pradeep Kumar wherein it is held that for applying the principle equal pay for equal work, there must be sufficient material before the Court for comparison. In absence of such material court should not interfere with the pay fixation of the Government on the basis of various factors including recommendation of Pay Commission unless there is a hostile discrimination. It has been further held that mere recommendations of the department did not entitle any member to a mandamus to enforce such recommendations.

P.L.D.N.

9. The learned counsel for the respondents further relied on 2002 SCC (L&S) 568 - State Bank of India & Anr. vs. M.R.Ganesh Babu & Ors., wherein it has been held that onus of proof lies on the claimants to establish his right to equal pay or the plea of discrimination and principle of equal pay for equal work depends on nature of work and not merely on the volume of work. Even where the functions are same, degree of responsibilities and reliability expected might be different. Hence, the decision of the administrative in fixing different pay and conditions of service involves an element of value of judgement, which must only satisfy the test of classification under Article 14.

10. The respondents have averred in para 11 of the written statement that Farakka Barrage Project is situated just adjacent to the Bangla Desh Border and in the circumstances it is not possible to compare the functions of the Security Guards engaged in the same project with those like the applicants who are working in C.W.P.R.S.

11. The applicants are chasing the Security Guards of Farakka Barrage Project on the basis of the fact that Security staff of Bombay and Calcutta Bench were provided the scale of Rs.825-1200 and on the basis of the same, Security Guards of Farakka Barrage Project got the benefit in view of an order passed in OA.NO.81/87 decided on 10.9.1987.

ADN -

..7/-

12. It is not for the Court to decide fixation of pay or parity in such cases (2002 (3) AI SLJ 138 - Union of India & Ors. vs. Indulal & Ors.).

13. Relying on the authorities referred above, we are unable to find out any parity in duties and responsibilities of the applicants compared to Security Guards of Farakka Barrage Project and there is no hostile estimation as such, there is no merit in OA.

14. In the result, OA. deserves to be dismissed and is dismissed accordingly with no order as to costs.

Shanta S-

(SMT. SHANTA SHASTRY)

MEMBER (A)

S.L. Jain

(S.L. JAIN)

MEMBER (J)

mrj.