

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 202/2000

THIS THE 21ST DAY OF FEBRUARY, 2002

CORAM

HON'BLE SHRI JUSTICE BIRENDRA DIKSHIT. VICE CHAIRMAN
HON'BLE SHRI M.P. SINGH. MEMBER (A)

1. A.B. Pereira
2. Narayan Mahadeo Tivrekar
3. Ganesh Bhaurao Shrote
4. Ashish Chandrakant Gawde
5. Adam Mohammed Shaikh
6. Shrikishna NarayaSatao,
(All are working as Radio Mechanic)
7. Lalsingh Hirasingh Yadav
8. Tulsidas Akudiya Bari
9. Dilip Shanker Durve
10. Ramesh Vasant Mungekar
11. Ashok Jayram Mohite
12. Baban Maruti Mane
13. Chandrashekar Nicholas Salve
(All are working as Mechanic Grade I)
14. Madukar Tatyaji Lohokare
(working as Professional
Assistant (Foreman)). ... Applicants

All are working in the Regional Meteorological
Centre/Office, Mumbai.

By Advocate Shri RameshRamamurthy

Versus

1. Union of India, through]
the Secretary,
Ministry of Science & Technology,
Technology Bhavan,
New Mehrauli Road,
New Delhi-110 016.
2. The Director general of meteorology,
India Meteorological department,
New Delhi-110 003.
3. The Deputy Director General of
Meteorology, Regional office,
Mumbai, R.C. Church, Sena Cinema,
Coloba, Mumbai-400 005. ... respondents

By Advocate Shri C. Anand.



O R D E R (ORAL)

Hon'ble Shri M.P. Singh. Member (A)

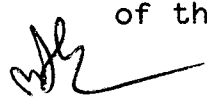
By filing this O.A. the applicants have sought the following reliefs:

- (1) that this Hon'ble Tribunal be pleased to hold and declare that the action of the Respondents is not providing proper scales of pay and better avenues of promotion to the applicants and the categories represented by them is illegal, arbitrary, discriminatory and the respondents are liable to be directed to provide better scales of pay and better avenues of promotion to the categories represented by the applicants.
- (b) that the respondents be directed to provide the applicants the scale of pay as demanded by them in para (c) of their representation dated 28.9.1998 (Ex.I) from 01.01.1996 and pay them all consequential arrears arising therefrom.
- (c) that the respondents be directed to make changes in the cadre structure of the non-industrial technical staff in the department so as to provide at least three promotions in the service career of the employees like the applicants by upgrading 75% of the posts of Radio Mechanic/Mechanic Grade I to the cadre of Mechanical Assistant and further upgrading 50% of the posts of Mechanical Assistants to the cadre of Professional Assistant (Foreman).
- (d) that the anomaly in the pay scale of Professional Assistant (Foreman) and Professional Assistant on the scientific side be rectified and Professional Assistant (Foreman) be granted pay scale of Rs.6500-10500 from 01.01.1996 with all consequential benefits, and further that the posts of Professional Assistant (Foreman) be upgraded as Assistant Meteorologist Grade II as done for Professional Assistant on the scientific side.
- (e) that the Applicants be permitted to file this application jointly as the cause of action is the same the reliefs sought for are common and they have a common interest in the subject matter of the application.
- (f) that such other and further order or orders be passed as the facts and circumstances of the case may require.

mtg


- (g) that the costs of this application be provided for.

The admitted facts of the case are that the applicants 14 in number are working in the categories of Mechanic Grade I/ Radio mechanic, Mechanical Assistant and Professional Assistant (Foreman) under Respondent No.3 viz. the Deputy Director General of Meteorology, Regional Office, Mumbai. According to the applicants, they have been totally discriminated and have been consistently ignored by the successive Pay Commissions. There are very few posts in the higher cadres and respondents have not made any attempt to improve the promotional chances of the applicants specifically in the category of Mechanic Grade II, Mechanic Grade I and Radio Mechanic. There are 135 posts in the cadre of Mechanic Grade I and Radio Mechanic. However, there are only 17 posts for the promotion in the cadre of Mechanical Assistant and further promotion as Professional Assistant (foreman) meaning thereby that the 118 persons in the cadre of Mechanic Grade I and Radio Mechanic will retire without earning a single promotion in their career. It is stated by the applicants that an Anomalies Committee was set up on 06.02.1998 for settling the anomalies arising out of the implementation of the Fifth Pay Commission's recommendations. Thereafter, a committee headed by Prof. Sampat was set up by the Government of India, to go into the issue of cadre structure and the pay scales of the employees. The said committee made



recommendations for time bound promotion, so as to improve the service conditions of the applicants. However, the Government has not taken steps to implement the recommendations of the said committee. The grievance of the applicants is that the respondents did not put-forth the case of the applicants before the Fifth Pay Commission or the Anomalies Committee properly, ^{hence &} ~~because~~ the case of the applicants has been ignored and their suffering is continuing. It is also stated by the applicants that they have submitted several representations to the respondents. Since no action had been taken by the respondents to improve their pay scales and career prospectus, they filed this O.A. claiming the aforesaid reliefs.

2. The respondents in their reply have stated that with a view to settle the anomalies arising out of the implementation of Fifth Pay Commission certain guidelines were issued by the Government for setting up of Anomay Committee. On the basis of those guidelines, an Anomaly Committee was constituted on 14th May, 1998 but this was withdrawn in February, 1999. It has been decided to deal with these Anomalies in the pay scales departmentally. Accordingly, the representations received from the concerned Unions were taken up with Department of Science & Technology for consideration. The mater is still under consideration and no final decision has been taken in this regard. In view of these



submission, the application does not merit consideration and is dismissed.

3. The matter relating the grant of pay scale, improvement of career prospects of the employees and cadre structure of a particular service cannot be looked into by the courts. These are subject matter which required to be gone into by an Expert Committee like Pay Commission. Various factors such as the job description, the responsibility attached to the post, promotional avenue, educational qualification, experience required for the posts, cadre structure etc., are to be taken into consideration before deciding the Pay Scale of a particular post. The courts/Tribunals are not equipped with such expertise to go into these aspects. These aspects have already been gone into by the Pay Commission which is an Expert Body to go into such matters.

4. In the case of Mr. P.V. Hariharan Vs. Union of India 1997 (1) SCC (L&S) 838 Hon'ble Supreme Court of India has held that:

"Held: Quite often the Administrative Tribunals are interfering with pay scales without proper reasons and without being conscious of the fact that fixation of pay is not their function. it is the function of the Government which normally acts on the recommendations of a Pay Commission. Change of pay scale of a category has a cascading effect. Several other categories similarly situated, as well as those situated above and below, put forward their claims on the basis of such

change. The Tribunal should realise that interfering with the prescribed pay scales is a serious matter. The Pay Commission, which goes into the problem at great depth and happens to have a full picture before it, is the proper authority to decide upon this issue. Unless a clear case of hostile discrimination is made out, there would be no justification for interfering with the fixation of pay scales. Sometimes orders have been passed by Single Members and that too quite often Administrative Members, allowing such claims. These orders have a serious impact on the public exchequer too. It would be in the fitness of things if all matters relating to pay scales, i.e. matters asking for a higher pay scale or an enhanced pay scale, as the case may be, on the other ground, are heard by a Bench comprising at least one Judicial Member."

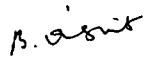
In this OA the applicants have failed to make out a case of hostile discrimination.

5. In view of the law laid down by the Hon'ble Supreme Court, this Tribunal cannot give direction to the respondents for the grant of pay scales and to improve career prospects of the applicants as prayed for by them in the application.

6. For the reasons recorded above the OA is devoid of merit and is accordingly dismissed. No order as to costs.


(M.P. SINGH)

MEMBER (A)


(BIRENDRA DIKSHIT)

VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

REVIEW PETITION NO.15/2002
IN
ORIGINAL APPLICATION NO.202/2000.

Tuesday, this the 18th day of June, 2002.

Hon'ble Shri Justice Birendra Dikshit, Vice-Chairman,
Hon'ble Shri M.P.Singh, Member (A).

A.B.Pereira & Ors!

...Review Petitioners
(Original Applicants)

v.

Union of India & Ors.

...Respondents.

: ORDER ON REVIEW PETITION (ORAL) :

M.P.Singh, Member (A).

The applicants had filed OA No.202/2002, which was decided by this Tribunal by its order dt. 21.2.2002 dismissing the OA.

2. The applicants have filed Review Petition No.202/2002 against the aforesaid order passed by the Tribunal in OA No.202/2002. In the Review Petition, the applicants' have prayed for the following order :

"(a) that this Hon'ble Tribunal be pleased to review and recall the Judgment and Order dt. 21.02.2002 passed in the above Original Application and place the O.A. again for hearing.

(b) that such other and further order or orders be passed as the facts and circumstances of the case may require.

(c) that the costs of this Review Petition be provided for."

3. The Review Petition came up for hearing yesterday the 17.6.2002. After hearing Learned Counsel for parties, we were satisfied that there was a misconception of facts while passing the order dated 21.2.2002 and therefore we had recalled this order and the OA was listed for hearing on merits to 18.6.2002.

4. The admitted facts of the case are that, the applicants fourteen in number are working in the categories of Mechanic Grade I/Radio Mechanic, Mechanical Assistant and Professional Assistant (Foreman) under Respondent No.3 viz. the Dy. Director General of Meteorology, Regional Office, Mumbai. According to the applicants, they have been totally discriminated and have been consistently ignored by the successive Pay Commissions. There are very few promotional posts in the higher grade and Respondents have not made any attempt to improve the promotional avenues of the applicants, especially in the category of Mechanic Gr.II, Mechanic Gr. I and Radio Mechanic. There are 135 posts in the cadre of Mechanic Gr. I and Radio Mechanic. However, there are only 17 posts for promotion in the cadre of Mechanical Assistants and further promotion as Professional Assistant (Foreman) meaning thereby that the 118 persons in the cadre of Mechanic Grade I and Radio Mechanic will retire without earning a single promotion in their career. It is stated by the applicants that an Anomalies Committee was set up on 06.02.1998 for settling the anomalies arising out of the recommendations of the 5th Pay Commission. Thereafter, a committee headed by Prof. Sampat was set up by the Government of India, to go into the issue of cadre structure and the pay scales of the employees. The said committee had made recommendations for time bound promotions so as to improve the service conditions of the applicants. However, the Government has not taken steps to implement the recommendations of the said committee. The grievance of the

applicants is that Respondents did not put-forth the case of the applicants before the Fifth Pay Commission or the Anomalies Committee properly. Hence, the case of the applicants has been ignored and their suffering is continuing. The applicants have submitted several representations to the Respondents from time to time, but no action has been taken by the respondents to improve their conditions of service, including career prospects and pay scales.


5. The Respondents, in their reply have stated that with a view to settle the anomalies arising out of the implementation of Fifth Pay Commission certain guidelines were issued by the Government for setting up of Anomaly Committee. On the basis of those guidelines, an Anomaly Committee was constituted on 14th May, 1998, but the same was withdrawn in February, 1999. It was then decided by the Respondents to deal with these anomalies in the pay scales departmentally. Accordingly, the representations received from the concerned Unions were taken up by the Department of Science & Technology for consideration. The matter is still under the consideration and no final decision has been taken in this regard.

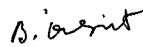
6. As regards, the recommendations of Prof. Sampat Committee, the same have not been implemented on account of different views against these recommendations from the Unions and various other organisations. It is further submitted by the Respondents that the in situ promotion in career advancement scheme and subsequent financial upgradation under Assured Career Progression have been allowed to eligible candidates including applicants at Sl.Nos. 1, 7, 8, 9, 10, 11, 12 and 13 vide order

dt. 16.12.1998 and 7.12.1999. In view of these submissions, the application does not merit consideration and be dismissed.

7. Heard Learned Counsel for both parties and perused relevant records. On a perusal of the papers, we find that certain anomalies have arisen as a result of recommendations of Fifth Pay Commission. The applicants also do not have adequate promotional avenues. While the respondents in their reply have admitted this fact and it is for this reason that they have constituted an Anomalies Committee to settle the anomalies in the pay scales. However, they have withdrawn the matter from the Anomalies Committee in February, 1999 on the ground that the matter related to anomaly will be looked into departmentally. As regards the recommendations of the Prof. Sampat Committee, the Respondents have not taken any decision on the ground that different views have been received by them from the Unions and other Organisations. We are conscious of the legal position settled by the Hon'ble Supreme Court that the Tribunal should not interfere with regard to fixation of pay, as it is a subject matter of the expert body like Pay Commission. However, in this case, the Pay Commission has already made its recommendations and according to Respondents, certain anomalies have arisen which are still under consideration of the Respondents. The recommendations of Prof. Sampat Committee is also under consideration by the Respondents. The Respondents have not yet taken any decision to implement recommendations of Prof. Sampat Committee. In the circumstances, we feel that ends of justice will be met if we direct respondents to take a decision on the

recommendations made by Prof. Sampat Committee and also on the anomalies arising out of the recommendations of Fifth Pay Commission, within a period of three months from the date of a receipt of copy of the order. We do so accordingly. No order as to costs.


(M.P. SINGH)
MEMBER(A)


(BIRENDRA DIKSHIT)
VICE-CHAIRMAN

B.



dt: 18.6.2002
Order/Judgment despatched
To Applicant/Respondent(s)
22.7.02.


29/7