

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

DATED THIS THE 14th NOVEMBER 1986

Present : Hon'ble Sri Ch. Ramakrishna Rao - Member (J)
Hon'ble Sri L.H.A. Rago - Member (A)

Application Nos. 694 to 708/86(T)

1. C. Somu
234, K.Kamaraj Road, Bangalore 42
2. M.N. S Muthu
5th Main, II Cross, Gangenahalli
Bangalore 6
3. Abdul Azeez
25/6, II Cross, Papanna Block
Gangenahalli, Bangalore 6
4. J.L. Manual
Door No. 11, 11th Cross Road,
Swimming Pool Extension, Bangalore 3
5. Abdul Jabbar
No.30 Slaughter House Road,
Broadway, Bangalore 1
6. L.Parameswara Rao
No. 39, Papanna Block, II Cross
Gangenahalli, Bangalore 6
7. P.Thanam
No.57, Kodanda Ramanagata, II Road,
Narayanapillai Cross, Bangalore 1
8. Raghu
No. 28, Bore Block Road,
Corporation, Bangalore 46
9. A.Raghunath Rao
Reading Room St. Door No.6
Munireddy Palya, Bangalore 6
10. R. Govindaswamy
No. 53, Periyar Nagar, Bangalore 5
11. H.Gundaiah,
No.170, Lakkasandra Lay out,
Wilson Gardens, Bangalore 27
12. N.J. Susaijoseph
No.32, Sonnanahalli
Vivikanagar P.O. Bangalore 47
13. T.M. Joseph
Anjaneya Temple Street
Yelagundapalmay, Bangalore 47

14.R. Rajasekar
No.27, 10th Cross,
Kumara Park West
Bangalore 20

15.B.G. Muniswamy
No. 312, 7th Main
Yelahanka Satellite Town,
Bangalore 64

- Applicants

(Sri M.N. Ananda Ramu, Advocate)

and

- 1.Union of India represented by the
Secretary to Government of India
Ministry of Health Services,
Nirman Bhawan, New Delhi
2. The Director General of Health Services
Nirman Bhawan
New Delhi
3. The Director
National Tuberculosis Institute,
No.8, Bellary Road,
Bangalore 3

(Sri M.S. Padmarajaiah, Senior C.G.S.C.)

This application came up for hearing before
this Tribunal and Hon'ble Sri Ch. Ramakrishna Rao,
Member (J) to-day made the following

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O R D E R

These applications were initially filed as writ petitions in the High Court of Karnataka and subsequently transferred to ^{this} Tribunal. The facts giving rise to these applications are, briefly, as follows.

2. The first applicant is a Selection Grade Driver ('SGD') in the National Tuberculosis Institute ('NTI') - respondent No. 3. Two among the applicants are Driver-cum-Mechanics in the pay scale Rs.330-450 in NTI. The others are Drivers in the pay scale Rs.260-350. According to the applicants, though some of them are working as Drivers they are also performing the duties of Driver-cum-Mechanic but they are not being paid in the higher scale of Rs.330-450. They have also a grievance that the 'Skilled Drivers' in the Transport Division of the Geological Survey of India ('GSI') are receiving pay in the higher scale. In short, their grievance is that they have not been given the scale of pay recommended by the Third Pay Commission and as a result of the disparities in the scale of pay made applicable to ^{them and} their counterparts in other Ministries/Departments of the Central Government the Constitutional mandate of 'equal pay for equal work' has been violated. Accordingly, they have prayed in their applications for grant of the scales of pay mentioned therein.

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3. Sri Ananda Ramu, learned counsel for the applicants, contends that the duties performed by the drivers in the NTI are basically the same as those performed by Driver-cum-Mechanics; that the work performed by drivers in NTI are at par with the work performed by drivers in other departments such as the GSI; ^{that} giving different scales of pay to drivers in NTI as against drivers in other departments results in discrimination ~~and~~ which is violative of Article 14 of the Constitution of India and the applicants are therefore justified in demanding the scales of pay prayed for by them.

4. Sri M.S. Padmarajaiah, Senior C.G.S.C., appearing for the respondents submits that such of the applicants who are working as Drivers have not been designated ^{that} as Driver-cum-Mechanics; ~~they~~ they are working solely as Drivers; that the three categories of Drivers, Driver-cum-Mechanics and Selection Grade Drivers are manned by persons possessing different qualifications and experience; that there are two ^{persons} belonging to the first category in the pay scale Rs.260-350; 19 are in the second category in the pay scale Rs.260-350 and six in the third category in the pay scale of Rs.320-400; that these scales of pay were fixed pursuant to the recommendations of the Third Pay Commission and there is no valid ground for the applicants to complain about the grant of pay scales to them by NTI. According to Sri Padmarajaiah, the plea ~~of~~ of the

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applicants that all drivers working in the several departments of the Central Government should be given the same scale of pay has no legal basis since the nature of the duties performed by drivers in some departments may be more arduous than those performed by drivers in other departments attributable to reasons such as terrain and environment in which they work.

5. This leads us to the crucial question whether Article 14 of the Constitution has been violated.

In Air India vs Nergesh Meerza, AIR 1981, S.C. 1829, the Supreme Court while considering the approach to be adopted and the scope of Article 14 of the Constitution has observed ~~as observed~~ as follows:

"In considering the fundamental right of equality of opportunity a technical, pedantic or doctrinaire approach should not be made. Article 14 forbids hostile discrimination but not reasonable classification. It applies where equals are treated differently without any reasonable basis. But where the class or categories of service are essentially different in purport and spirit, e.g. where different scales of pay, service terms, leave etc. are introduced in different or dissimilar posts, Article 14 cannot be attracted.

"Even if there be one class of service having several categories with different attributes and incidents such a category becomes a separate class by itself and no difference or discrimination between such category and the general members of the other class would amount to any discrimination or to denial of equality of opportunity. Though a rule of universal application cannot be laid down, in order to judge whether a separate category has been carved out of a class of service, the circumstances such as the nature, mode and manner of recruitment of a particular category from the very start; the classification of the particular category; the

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"terms and conditions of service of the members of the category; the nature and character of the posts and promotional avenues, the special attributes that the particular category possess which are not to be found in other classes and the like, have generally to be examined. It is difficult to lay down a rule of universal application but the circumstances mentioned above may be taken to be illustrative guidelines for determining the question."

Thus it is possible to carve out several categories from one class of service in which case each category becomes a separate class by itself. Though the drivers in the several departments of the Central Government perform, broadly speaking, the same kind of work, there may be special attributes attaching to the posts of drivers in different departments. We are, therefore, not impressed by the arguments of Sri Ananda Ramu that the scales of pay obtaining in GSI should be ^{made} applicable to the applicants as no material has been placed before us to demonstrate that the nature of duties of the drivers of GSI are the same as those performed by the applicants.

6. Sri Ananda Ramu relies heavily on the decision of the Supreme Court in Randhir Singh v Union of India AIR 1982 SC 879 in support of applicability of the principle: 'equal pay for equal work'. The issue debated in that case was whether the Driver-Constables of the Delhi Police Force were entitled to the same scale of pay applicable to other drivers in the Delhi Administration. While answering the question in the affirmative, the Supreme Court ~~has~~ observed :

" There cannot be the slightest doubt that the drivers in the Delhi Police Force perform the same functions and duties as other drivers in service of the Delhi Administration and the Central Government. If anything, by reason of their investiture with the 'powers, functions and privileges of a police officer', their duties and responsibilities are more arduous. In ~~xx~~ answer to the allegation in the petition that the driver-constables of the Delhi Police Force perform no less arduous duties than drivers in other departments, it was admitted by the respondents in their counter that the duties of the driver-constables of the Delhi Police Force were onerous. What then is the reason for giving them a lower scale of pay than others ? There is none."

In our view, this decision has no application to the present case since, as already stated, no material has been placed before us by the applicant to claim parity with the scale of pay in GSI for similar posts, whereas in the case before the Supreme Court cited supra it was conceded by the Central Government that the driver-constables perform no less arduous duties than those drivers working in the Delhi Administration. There is no such concession made by the respondents in the reply filed on their behalf.

7. Sri Ananda Ramu next relies on the decision of the Supreme Court in Surinder Singh and anr v the Chief Engineer-in-Chief CPWD and ors L.L.J. 1984 p.403-405

wherein it was laid down:~~that~~

"Employees of Central Public Works Department, who are employed on daily wages for several years, ~~claimed that they~~ should be paid the same wages as permanent employees doing identical work."

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This decision is an authority for the proposition that those employed on daily wages should be paid at par with permanent employees doing identical work in CPWD. The emphasis ^{is} on the identity of the work done by employees in the same department and therefore it has no application to the present case.

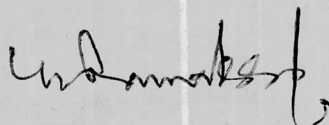
8. Sri Ananda Ramu lastly calls in aid the decision of the Supreme Court in P.Savita and ors and Union of India & ors L.L.J. 1986 p.79-83 wherein it was held: ~~xxx~~

"By seniority, a Senior Draughtsman will get higher pay with the increments that he earns proportionate to the number of years he is in service, here that is not the case. It is the classification of the Senior Draughtsmen into two groups, that is responsible for the higher pay. For this classification, the Government must be able to satisfy the Court of certain other tests which are non-existent, in this case, since it is not in dispute that Senior Draughtsmen, belonging to the two Divisions, do equal and same work. In view of the total absence of any plea on the side of the respondents, that the Senior Draughtsmen who are placed in the advantageous group, do not perform work and duties more onerous or different from the work performed by the appellants group, it will have to be held that this grouping violates Art.14 of the Constitution."

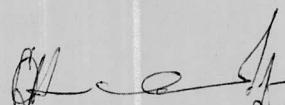
9. After giving careful thought to the rival contentions and the decisions cited, we are satisfied that the prayer of the applicants is devoid of substance.

10. In the result the applications are dismissed.

No order as to costs.



Member (J)



Member (AM)

14.11.1986

D.NO. 4229/87 IVA

SUPREME COURT OF INDIA
NEW DELHI

Dated 15-7-88

From:

The Additional Registrar
Supreme Court of India
New Delhi

To

Rg 22/7 S.T.
The Registrar
Central Administrative Tribunal
Bangalore Bench, Bangalore.

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NOS. 13445-59/87

(Petition Under Article 136 of the Constitution of India

for Special Leave to Appeals to the Supreme Court from

the Judgment and Order dated 14-11-86 of the

High Court of Central Administrative Tribunal

Bangalore Bench, Bangalore in Appln. Nos. 694-700/86
CT.S.

Sr. C. Somu and ors.

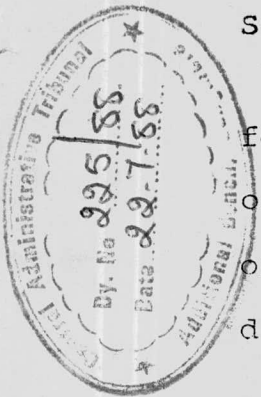
....Petitioners.

Union of India and ors

....Respondents.

Sir,

I am to inform you that the Petition above-mentioned
for Special Leave to Appeals to this Court was filed on behalf
of the Petitioner above-named from the judgment and Order
Central Administrative Tribunal Bangalore Bench, Bangalore
of the High Court noted above and that the same was/were
dismissed by this Court on the 4th day of April
1988.



Yours faithfully,

[Signature]
for ADDITIONAL REGISTRAR