

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No:16/94

Date of Decision:22/2/99.

Shri S.S.Yadav & 13 Ors.

Applicant.

Shri A.I.Bhatkar/K.R.Yelwe

Advocate for
Applicant.

Versus

Animal Husbandry & Veterinary

Officer & 30rs.
Respondent(s)

Shri V.S.Masurkar

Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G.Vaidyanatha, Vice Chairman.

Hon'ble Shri. D.S.Baweja, Member(A).

- (1) To be referred to the Reporter or not? *NO*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *M*

abp.


(R.G.VAIDYANATHA)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GULESTAN BLDG.NO.6,4TH FLR,PRESCOT RD,FORT,
MUMBAI - 400 001.

ORIGINAL APPLICATION NO:16/94.

DATED THE 22ND DAY OF FEBRUARY, 1999.

CORAM:Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.

Hon'ble Shri D.S.Baweja, Member(A).

1. S.S.Yadav, (Dadra & Nagar Haveli)
Stockman,
Dept. of Animal Husbandry,
P.O.:SILVASSA.
PIN CODE : 396 230.
2. D.R.Vyas, Stockman. (Dadra & Nagar Haveli)
3. A.S.Patel, Stockman. (")
4. M.D.Jawalia, Stockman. (")
5. M.I.Kureshi, Stockman. (")
6. S.C.Solanki, stockman. (")
7. N.M.Parmar, stockman. (")
8. K.N.Dhodia, stockman. (")
9. N.D.Bhandari, stockman. (")
10. M.C.Ahir. Stockman. (")
11. N.L.Sanvar, stockman. (deleted)
12. M.C.Patel, Stockman. (Dadra & Nagar Haveli)
13. H.T.Patel, stockman. (")
14. A.B.Patel, Stockman. (")... Applicants.

By Advocate Shri A.I.Bhatkar/K.R.Yelwe

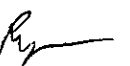
v/s.

1. Animal Husbandry and Veterinary Officer,
Dadra and Nagar Haveli,
P.O.: Silvassa.
Pin Code-396 230.
2. The Administrator,
Union Territory of Dadra & Nagar Haveli,
At : Silvassa - 396 230.
3. The Collector,
Dadra and Nagar Haveli,
AT: Silvassa-396 230.
4. Union of India,
through: the Secretary,
Ministry of Home Affairs,
Central Secretariat,
North Block,
NEW DELHI.

... Respondents.

By Advocate Shri V.S.Masurkar.

...2/-



I O R D E R

I Per Shri R.G.Vaidyanatha, Vice Chairman I

This is an application filed by applicants under section-19 of Administrative Tribunals Act. Respondents have filed reply opposing the application. We have heard the learned counsels appearing on both sides.

2. The applicants are working as stockman in the Department of Animal Husbandry in the Union Territory of Dadra and Nagar Haveli. Their grievance is that they are not given equal pay for equal work compared to their counterparts in Union Territory of Daman and Diu. The applicants joined service in the Union Territory of Dadra and Nagar Haveli and as on the date of application they are in the pay scale of Rs.950-1540; on the other hand the pay scale of applicants' counterparts in the Union Territory of Daman and Diu as on the date of application was Rs.1200-2040. The applicants have alleged that both sets of officials in the two Union Territories are recruited on similar lines on the basis of same qualifications and their duties are identical but still the officials in Dadra and Nagar Haveli are paid a lower salary than their counterparts in the Union Territory of Daman and Diu. It is their case ^{that} under article 39(d) of the Constitution of India, state is obliged to give equal pay for equal work. It is also alleged that unequal pay amounts to violation of articles 14 and 16 of the Constitution of India. It is also stated that both the Union Territories come under a common administrator and is controlled by Union of India. Therefore, the applicants have approached this Tribunal praying for a direction to the respondents to extend the pay scale of Rs.1200-2040 to the applicants with effect from 1/1/86 and other consequential reliefs.

3. Respondents in their reply have stated that the applicants cannot get the same pay scale as is given to employees of Union Territory of Daman and Diu, since each

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Union Territory is distinct and different. While admitting that there is a common Administrator, it is pleaded that on this ground the applicants cannot claim parity of pay scales with their counterparts in the other Union Territory.

It is also stated that stockman in the Union Territory of Dadra & Nagar Haveli have better promotional avenues.


It is stated that applicant No.5, Shri Kureshi cannot maintain this application since he was dismissed from service by order dated 6/10/87. As far as applicant No.1 is concerned, it is stated that in 1973 he was promoted to higher post in the pay scale of Rs.1350-2200 and again got one more promotion in 1983 and therefore he cannot claim parity with the other applicants.

It is admitted that the Union Territory of Goa, Daman and Diu were common till the Union Territory were divided and Goa became a separate state in 1987.

It is stated that the applicants cannot claim pay scales on par with their counterparts in the Union Territory of Daman and Diu. Hence, it is prayed that the application be dismissed with costs.

4. After hearing both counsels and perusal of the materials on record, the only point to be considered is whether applicants have made out a case for getting higher pay scale on the ground of equal pay for equal work?

It is well settled that Courts and Tribunals cannot interfere in the case of revision of pay scale or fixation of pay scales for different categories of post. Hence Pay Commissions who have to determine the pay scales for different categories depending on nature of duties, mode of recruitment, etc. The Courts and Tribunals cannot evaluate these items as to what is the proper pay for a particular post. To find out the equality between the two sets of Officials under two different states or Administration, we have examined their structure and Constitution.



5. It is also well settled that if the payscale of comparable employees are not equal though they are doing equal work then Courts or Tribunals may interfere if it finds that the difference in payscale invites the vice of articles 14 and 16 of Constitution of India. Then there is a Constitution Mandate under article 39(d) which states that state shall ensure equal pay for equal work. Therefore we have to exercise limited jurisdiction, if the applicants counterparts are getting a particular ^{whether} payscale, / the applicants should also be paid equal pay for equal work?

The applicants are working in the Union Territory of Dadra and Nagar Haveli with designation as stockman. Their payscale is Rs.975-1540 after the IVth pay commission. The recruitment rules are on page-56. It shows at item No.15 ~~xxxxxx~~ Veterinary Stockman, who are the applicants in the present case. The qualification is SSC with training of Veterinary Stockman.

In the recruitment rules of Union Territory of Daman and Diu, which is at page-57 of paper book, we find item No.18 pertains to Veterinary Assistant, the qualification is Matriculation and Certificate of training in the course of Stock Assistant/stockman from a recognised Institute. The payscale is Rs.1200-2040. Except for a minor change in the designation, we find that the qualifications and the mode of recruitment ^{to} are same ~~xxx~~ both/applicants on the one hand and their counterparts in Union Territory of Daman and Diu. ^{Further} ~~Further~~ the nature of duties of the two sets of officials in the two Union Territories are similar. At page-66 of the paper book, we have the duties of Veterinary Assistant, in the Union Territory of Daman and Diu where 14 items of duties are mentioned. On page-70, we have the duties of Stockman, namely the applicants who are working in U.T.

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of Dadra and Nagar Haveli. There also same duties numbering ~~xxxxxxx~~ 14 are mentioned. We have compared both the cases and find that the nature of work of both officials are identical.

6. It is also noted that both the Union Territories come under the control of Union of India after liberation from Portuguese ~~dominion. Further~~ ~~both the Union Territories come~~ under the control of ~~one~~ administrator and under control of one Government. ~~Hence:~~ there cannot be discrimination in payscale when they are doing same work with the same qualification and experience and in the same department. We also notice that the training required for both sides is similar. In this connection, we may refer to page-25 ^{copy of} where an official of Daman & Diu has given a/certificate that he has under gone training in the stock man Training Centre at Ponda., and we find that one of the applicants namely applicant No.13, Shri H.T.Patel has also undergone the same training from the same centre as can be seen from his certificate which is at page-26 of paper book. Therefore, we find that mode of recruitment, qualification and nature of duties are one and the same and both the Union Territories are under the control of Government of India. Question is whether in these circumstances, the State can discriminate between one set of employees and the other on the question of payscale. The question is no longer res integra and is covered ^{namely} by number of decisions of supreme Court, that discrimination should not be made especially when there is equal work for two sets of officials doing same work. vide [AIR 1987 S.C. 2049, Bhagwan Dass & Ors v/s. State of Haryana and Ors] the Supreme Court has pointed out that equal pay for equal work is a Constitution Mandate under Article 39(d) and in pursuance of same, the Government cannot deny equal pay on the ground that mode of recruitment was different. We find that mode of recruitment is almost identical in both

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the Union Territories.

The same view is again taken in the latest judgement of Supreme Court in [1996 SCC (L&S) 1159, State of Haryana and Ors. v/s. Rajpal sharma and Ors] where principles of equal pay for equal work reiterated when there is parity in employment.

7. Learned Counsel for applicants also brought to our notice some earlier decision of this Tribunal, which is at page-30 of the paperbook, where the Tribunal has held in Tr.Application No.90/86 to 97/86 that the applicants should be allowed the standardised pay with all consequential benefits from the date of their joining., vide order dated 22/12/86.

In view of the legal position explained above, the applicants on the ground of equal pay for equal work are ~~entitled~~ to ~~payscale~~ as given to their counterparts namely the employees under the Union Territory of Daman and Diu. The applicants should get payscale of Rs.1200-2040. As to what from what period of benefits should be extended is the next question. Except one representation in 1989, there is no other material to show that any representations had been sent earlier by the applicants. On the other hand, as rightly argued by counsel for respondents, the question of delay must also be taken into consideration while deciding this type of case. As regard to the facts and circumstances of the case, we feel that the relief should be granted from the date the application was filed. The application was filed on 13/12/93, the relief is allowed from 1/1/94.

8. Among the applicants we find that the first applicant cannot claim any parity with other applicants since he had two promotions prior to filing of the application., and therefore he is not entitled to any parity in the payscale, with the remaining applicants



atleast from 1/1/94, date from which the benefits are being granted to applicants. The respondents have also taken an objection about the claim of 5th applicant, on the ground that he had been dismissed from service in 1987., on this ground we were to reject his claim, but the applicant No.5 is before the Tribunal and submits that he has been since reinstated w.e.f. 18/12/98. Since the applicant No.5 has been reinstated, as stated by order dated 18/12/98, from the date of his reinstatement, the relief is granted to him., namely 18/12/98 subject to terms and conditions of his reinstatement.

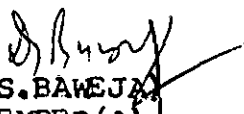
9. In the result, the application is allowed as follows:-


1. All the applicants who are stockman(except applicant Nos.1 and 5) in Union Territory of Dadra and Nagar Haveli are entitled to payscale of Rs.1200-2040. The respondents are directed to give the pay scale of 1200-2040 to applicants w.e.f. 1/1/94 and ^{by} to pay ^{of} the applicants (except Nos.1 and 5) in appropriate stage in the pay scale of Rs.1200-2040 depending upon their stage of pay in old pay scale of Rs.950-1540 as on 1/1/94. The applicants are entitled to arrears of pay on that basis from 1/1/94 on the basis of pay scale now given. Applicants (except Nos.1 and 5) are entitled to consequential benefits from 1/1/96 on the basis of 5th Pay commission report.
2. Liberty to 5th applicant Shri M.I. Kureshi to make representation to the Competent Authority claiming benefit of pay scale granted in this case subject to terms and conditions of order of reinstatement.

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Then Competent Authority may consider the same and pass appropriate order according to law.

3. Respondents are required to comply with this order within 4 months from the date of receipt of copy of this order.
4. In the circumstances of the case, no orders as to costs.


(D.S. BAWEJA)
MEMBER (A)


(R.G. VAIDYANATHA)
VICE CHAIRMAN

abp.