

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 1166/94

Transfer Application No.

Date of Decision 1/3/95

Smt. Alka Nanda Dash

Petitioner/s

Shri G.K. Masand

Advocate for
the Petitioners

Versus

Union of India & Ors.

Respondent/s

Shri R.K. Shetty

Advocate for
the Respondents

CORAM :

Hon'ble Shri. B.S. Hegde, Member (J)

Hon'ble Shri. P.P. Srivastava, Member (A)

- (1) To be referred to the Reporter or not ?
- (2) Whether it needs to be circulated to other Benches of the Tribunal ?

(P.P. SRIVASTAVA)
MEMBER (A)

(B.S. HEGDE)
MEMBER (J)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NO. 1166/94

Smt. Alka Nanda Dash

... Applicant

v/s.

Union of India & Ors.

... Respondents

CORAM: Hon'ble Member (J) Shri B.S.Hegde
Hon'ble Member (A) Shri P.P.Srivastava

Appearance

Shri G.K.Masand
Advocate
for the Applicant

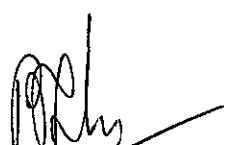
Shri R.K.Shetty
Advocate
for the Respondents

JUDGEMENT

Dated: 1/3/95

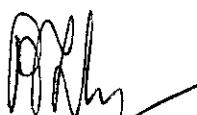
(PER: P.P.Srivastava, Member (A))

The applicant is a Group 'A' officer working in the Central Industrial Security Force. The applicant entered the service through Civil Services Examination conducted by the Union Public Service Commission in the year 1988 and was appointed in the above post in June, 1989. The main grievance of the applicant is that the senior pay scale in the grade of Rs.3000-4500 is given in the other Group 'A' services of the Govt. of India in the fourth year of service which is not being done in the case of Central Industrial Security Forces Group 'A' officers. The applicant had submitted a representation to the Govt. of India but the representation has been turned down by the respondents vide their letter dated 6.10.1994 placed at Ex.-'A'. The letter dated 6.10.1994



mentions that the Ministry of Home Affairs have observed that there is no provision in the CISF Rules for time bound promotion for grant of senior time pay scale, therefore, the representation of the applicant has been rejected. Aggrieved by the above order the applicant has approached the Tribunal through this OA. for grant of parity between the service conditions of C.I.S.F. Officers, directly recruited from the Union Public Service Commission, Civil Service Examination and other Group 'A' Civil Services Officers and to grant the senior time scale to the applicant as provided and granted to other Group 'A' Officers in the Group 'A' Civil Services and also for forming a separate cadre Central Industrial Security Forces to increase the promotional chances of the C.I.S.F. officers.

2. The applicant submits that similarly recruited officers through the same examination in other services gets the senior scale in fourth year of service and since the recruitment was common, it is discriminatory that in the cadre of C.I.S.F. the senior scale is not given in fourth year. The applicant has brought out that in the IPS, which is also a force, a batchmate of the applicant has been promoted to senior time scale after 4 years as well as orders were issued in the Income Tax department for granting the senior time scale after 4 years of service.



.. (3) / -

3. The applicant has brought out that the post of the Assistant Commandant in the C.I.S.F. was upgraded in 1986 to Group 'A' post while the rules which govern the service conditions which were framed in 1983 have not been suitably amended and the post of Assistant Commandant continues to consider and treat for all practical purposes as a Group 'B' post. It is, therefore, necessary that the rules framed in 1983 should be suitably amended providing service conditions to the Group 'A' directly recruited officers at par with other Group 'A' services.

4. Counsel for the applicant has also submitted that once a candidate has been selected for Group 'A' service, he or she is not entitled to compete for the other Group 'A' services. Thus, a candidate like the applicant who has already been selected in C.I.S.F. Group 'A' cannot compete in the next examination for the Indian Revenue Service. Therefore, it is necessary that all Group 'A' services should be treated equal as far as service conditions are concerned and therefore in the interest of equity and justice [redacted] like other Group 'A' services, the applicant should also be entitled to promotion to senior scale after 4 years of service.

5. Counsel for the respondents at the outset raised the question of jurisdiction in as much as since the C.I.S.F. is a force, this Tribunal has no jurisdiction to entertain this OA. in terms of provisions of Section 2-A of Administrative Tribunals Act, 1985.



In this connection, our attention has been drawn to the Full Bench Judgement in Satyendra Narayan Pandey vs. Union of India & Ors., OA.NO. 2478/91 decided on 5.2.1993 which is placed at Annexure- 'R-4'. In Para 7 & 9 it has been held that :-

" On a true interpretation of Section 2(a) of the Administrative Tribunals Act, it was to be held that the Act does not apply to matters relating to reinstatement to armed forces of the Union and to service matters of members of the armed forces of the Union. In the instant case, though the petitioner was a member of the Armed Force of the Union, the dispute which he has sought of adjudication before the Tribunal does not relate either to the armed force of the Union or the enforcement of any of the conditions of service as a member of the said force. He is seeking to enforce his rights to consideration for appointment to All India Service wholly unconnected with membership of the armed force of the Union. Hence, the provisions of Section 2(a) are not attracted and, therefore, the application is maintainable."

6. We have no doubt that the applicant belongs to Armed Forces of the Union and C.I.S.F. is one of the Armed Forces of the Union but this itself does not take away the jurisdiction of the C.A.T. as the dispute which has been raised by the applicant in this OA. does not relate either to the Armed Forces of the Union or the enforcement of any of the conditions of service as a member of the Armed Force. In this OA. the applicant has sought parity with other civil services and therefore the provisions of Section 2(a) are not attracted and in our opinion, therefore, the application is maintainable.



7. As far as the question of parity between services is concerned, there is no doubt that there is disparity between different services and the facts of the case as has been brought out by the applicant that in the C.I.S.F. the promotion to senior scale ~~is~~ not automatically available after 4 years of service is not disputed. In this connection, the applicant has brought to our notice the Supreme Court decision in Mohan Kumar Singhania & Ors. vs. Union of India & Ors. (1992) 19 ATC 881, wherein the Supreme Court has observed ~~in~~ Para 109 as under :-

"109. As envisaged in Rule 17, due consideration is given at the time of making appointments on the results of the examination to the preferences expressed by a candidate for various services at the time of his application and the said appointments will be governed by the rules/regulations in force as applicable to the respective services at the time of appointment. As pointed out in detail in the preceding part of this judgement, under the first proviso to Rule 17, a candidate who has been approved and appointed to IPS or Central Services Group 'A' will be eligible to compete for appointment in services mentioned against that service in column No. 3 of the table given in the said rule. As per the second proviso appended to the said rule, a candidate who is appointed to a Central Service Group 'B' on the results of an earlier examination will be eligible to compete for IAS, IFS and Central Services Group 'A' and considered only for those appointments. The intent of the above proviso proceeds on the footing that all Central Services of Group 'A' stand on equal footing and likewise all Group 'B' services also stand on equal footing within their respective group of services/posts and that there is no point in competing for any one of the services by a candidate within the same Group 'A' or Group 'B' services as the case may be when he has already been allocated and appointed to one of those services in either of the groups to which he has been selected on his merit."



8. The counsel for the applicant has submitted that the Supreme Court has observed in the above para that the intent of the above proviso proceeds on the footing that all Central Services of Group 'A' stand on equal footing and likewise all Group 'B' services also stand on equal footing within their respective group of services/posts and that there is no point in competing for any one of the services by a candidate within the same Group 'A' or Group 'B' services as the case may be when he has already been allocated and appointed to one of those services in either of the groups to which he has been selected on his merit. These observations of the Supreme Court are in context of promoting the officers selected in different services for higher services and in that since all Group 'A' services have been put in on equal footing and similarly all Group 'B' services have been put in on equal footing. The Hon'ble Supreme Court has also observed in the same judgement in Para 127 which reads as under :-

"127. We shall now bestow our judicious thought over this matter and carefully examine the rival contentions of the parties in the light of the guiding principles, lucidly laid down by this Court in a series of decisions, a few of which we have already referred to hereinbefore. The selections for IAS, IFS and IPS Group 'A' services and Group 'B' service are made by a combined competitive examination and viva voce test.

There cannot be any dispute that each service is a distinct and separate cadre, having its separate field of operation, with different status, prospects, pay scales, the nature of duties, the responsibilities to the post and conditions of service etc. Therefore, once a candidate is selected and appointed to a particular cadre, he cannot be allowed to say that he is at par with the others on the ground that all of them appeared and were selected by a combined competitive examination and viva voce test and that the qualifications prescribed are comparable. In our considered view, the classification of the present case is not based on artificial inequalities but is hedged within the salient features and truly founded on substantial differences. Judged from this point of view, it seems to us impossible to accept the submission that the classification rests on an unreal and unreasonable basis and that it is arbitrary or absurd."

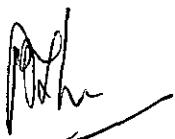
9. In this judgement, the Hon'ble Supreme Court has not examined the parity between different services in Group 'A' as far as service conditions prevailing in different Group 'A' services. Therefore, the observations of the Supreme Court made in this case are required to be read in context with the case which was under consideration.

10. The counsel for the applicant has further brought to our notice that in the Railway Protection Force the prospect of the directly recruited officers have been made equal to that of other Group 'A' services and since the post of Assistant Security Officer in Railway Protection Force is also filled by the same examination and is similar to the one in the C.I.S.F., there would be discrimination if the service conditions of the C.I.S.F. and the Railway Protection Force Group 'A' officers are not equated.



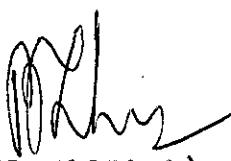
11. On the question of forming a separate cadre for the C.I.S.F., the counsel for the applicant has submitted that the posts in the cadre of C.I.S.F. are being filled by the IPS officers. There is entry at the higher levels from different channels by inducting officers of defence services on re-employment, watch and ward officers from Public Sector Undertakings besides the IPS cadre officers who come on deputation on different levels. At present, the post of I.G. or D.G. are 100% filled by deputation. Counsel for the applicant has argued that need for bringing the officers was apparent when Group 'A' officers were not being recruited through C.I.S.F. However, after the recruitment to Group 'A' officers in the C.I.S.F., it is necessary that cadre is formed and the entry of outside officers should be barred so that the Group 'A' officers directly recruited have chance to senior posts.

12. Counsel for the respondents has argued that the different Group 'A' services have their own characteristic and the service conditions for each services are different and it is not possible to have uniform service conditions for all Group 'A' services. Counsel for the respondents has further argued that the question of parity is required to be considered by the Government and is not within the purview of the Tribunal as the service conditions are matter of policy which are required to be decided by the Government.



13. We are inclined to agree with the counsel for the respondents on this issue that it is for the Central Government to decide the service conditions according to the nature of service and the requirement of the working of particular service. The question of difference in the provisions for granting senior scale automatically after 4 years of service between C.I.S.F. and some other Group 'A' services is also therefore required to be considered by the Government keeping in view all the different submissions made by the applicant in this OA. Similarly, the question of starting a separate cadre for C.I.S.F. is also a question of policy which is required to be decided by the Government. It will not therefore be desirable to the Tribunal to issue any directions on this point specifically. We are, however, of the view that there are genuine grievances which the applicant has put forward in the OA. which are required to be redressed by the Government.

14. We, therefore, direct that Union of India may appoint a high level committee to consider the various grievances raised in this OA. by the applicant and take decisions. These decisions would be communicated to the applicant. This exercise should be completed within a period of six months from the date of receipt of a copy of this order. The OA. is disposed of with the above directions.


(P.P. SRIVASTAVA)
MEMBER (A)


(B.S. HEGDE)
MEMBER (J)