

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO: 635.95

DATE OF DECISION: 5<sup>th</sup> May 2000

All India Salt Department Employees Union                      Applicant.  
and others.

Shri S.P.Saxena . Advocate for  
Applicant.

Versus

Union of India and others Respondents.

Shri V.S. Masurkar Advocate for Respondents

CORAM

Hon'ble Shri B.N.Bahadur, Member(A)

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

(1) To be referred to the Reporter or not? yes

(2) Whether it needs to be circulated to other Benches of the Tribunal? No.

(3) Library.

yes

(S.L.Jain)  
Member (J)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 635/95

the 5<sup>th</sup> day of MAY 2000

CORAM: Hon'ble Shri B.N.Bahadur, Member (A)

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

1. All India Salt Department Employees Union, Bombay Unit, through Shri Panaroo Hariram, General Secretary, for and on behalf of member constituent
2. Shri Gurcharn Singh, Dy. Supdt. of Salt, C/o Deputy Salt Commissioner, Bombay. Residing at E-117 Shivam Apartment Uran, New Bombay.
3. Shri Randip Goswami, Inspector of Salt, C/o Deputy Salt Commissioner, Bombay Residing at P.O.'s Bungalow, M.G. Road, Ghatkopar (East), Bombay.

...Applicants.

By Advocate Shri S.P.Saxena.

V/s

1. Union of India through Secretary, Ministry of Industry Department of Industrial Development, Udyog Bhavan, New Delhi.
2. Salt Commissioner, Government of India, Lavan Bhavan, 2-A Lavan Marg., Jhalan Doongri, Jaipur.
3. Deputy Salt Commissioner, Government of India, Exchange Building, 4th floor, Spratt Road, Ballard Estate, Bombay.

...Respondents.

By Advocate Shri V.S.Masurkar.

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 seeking the relief of

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direction to the respondents to apply the same pay scales and all other attendant benefits which are applicable to Inspectors of Central Excise Department with retrospective effect from 1.1.1980.

2. Till the month of August 1947 the Department now known as Salt Department was a part and parcel of Customs and Central Excise Department, under the Ministry of Finance. There was a common cadre of all officers including Inspectors and thus transferrable. In the month of August 1947 a Special Committee was appointed with a view to

- i) Achieving self sufficiency in indigenous production of salt and saving foreign exchange on account of imports.
- ii) Improving quality of salt to match international standards.
- iii) Putting Salt Industry in India on sound footing on scientific lines in consonance with National Policy.

With these objects there was bifurcation of the then Customs and Central Excise Department and Administration of Salt manufacturing was separated in or about October 1948. The Salt department then existing and working in the Salt Administration was born on Central Excise Cadres. The Pay scales/Wages and other service conditions and amenities were the same for the workman working in Salt Stations. After the bifurcation officers and Staff and workmen at that time were transferred to the Ministry of Industry.

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3. The applicants' case in brief is that living conditions of the Staff and Workman working at Salt Stations are more onerous than the staff and workman working in the Central Excise. The Salt Stations are located all along the Sea Coast which are normally at a considerable distance from the cities, towns and villages and the workman are deprived of normal civil amenities and the said Cabinet Committee not only assured the protection of pay and equal pay scales in future with their counter parts in Central Excise Department but also conceded certain concessions in view of onerous conditions in which the Salt Department workmen have to work.

4. The parity between the pay scales payable to staff employed by Salt Department including those of Inspectors and Superintendent was maintained under 1st Pay Commission but was disturbed by the IInd Pay Commission by recommending higher pay scales for Central Excise Staff. In response to their representation, which was corrected by the Staff reorganisation unit with effect from 1.4.1966 and 1.4.1967 instead of retrospectively from 1.7.1959. The Madras High Court in Writ Petition No. 259/79 decided on 15.3.1985 corrected this anomaly with effect from 1.7.1959 applying the principles of equal pay for equal work. The similar pay scale i.e. Rs. 425 - 700 was given by the IIIrd Pay Commission. The Jodhpur Tribunal awarded the pay scale of Rs. 550 - 990 to Inspector of Central Excise department by bringing them at par with Inspectors in Income Tax department.

*P. V. M.*

5. The grievance is that question of revision of pay of similar staff in Salt Department was not at all considered though they were doing the same work even in fact, more onerous work and discharging more and responsible duties. The principle of equal pay for equal work is thus infringed. The same situation continued by the recommendation of IV Central Pay Commission. This was inadvertantly done without considering the elements of work, which occurred due to non application of mind which ought not to have occurred in view of the judgement of Madras High Court in Writ Petition No. 259/79. The said discrimination continues since 1.1.1980.

6. It is alleged that duties and responsibilities of the Inspector of Salt are same and similar to the Inspector of Central Excise which includes out door surveys and enquiries, assistance in maintaining quality control of Salt, running of laboratories, model Salt Farms, assistance in Administration of Central Excise and Salt Act 1944 and the rules made there under in order to regulate production, storage and sale of Salt, recovery of Government dues, collection of statistical data and such other duties as are assigned to them from time to time. With the implementation of National Iodine Deficiency Disorders Control programme and universal iodisation of salt. There has been tremendous increase in duties and accountability. The Inspector is the back bone and basic Executive Officer on whom entire success of the programme depends. AS a Special case, the Government has permitted the Salt Department to execute Civil/Electrical Engineering works under Rule 129(2) of G.F.R. Rules 1963. The Inspector is custodian of thousands of hectares

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of lands under use either for Salt manufacture or for being used as residential purpose vesting in Union of India. which are repeated encroached upon, hence to safe guard them against encroachment or misuse. Most often in execution of such duty, physical assault, is faced by anti social elements, in absence of fire arms. The Salt stations are located along the Sea Coast, devoid of amenities of school, health care centres like other counter parts - Central Excise having their posting in cities and towns. The job is technical and scientific one hence only graduates in Science with Chemistry are recruited. Hence this OA for the above said reliefs.

7. The claim is resisted by the respondents with an averment that the applicant No.1 which is a regional unit have not supported the case with any resolution passed by the constituent members of the Bombay unit authorising its General Secretary for filing the case and the applicants have not stated the representation of the Bombay Unit office the number of personnel to whom the decision of the OA is applicable. In its absence the General Secretary has no right to file the present OA. The grievance of the applicant is barred by time as the applicants are approaching the Tribunal after expiry of 5 years, as order dated 15.7.1990 Exhibit A is being challenged.

8. On merits it is stated that the Department was separated in 1948 and the Salt Department was formed separately and presently under the Ministry of Industry, Department of Industrial Promotions and policies. The respondents in respect of common cadre stated that 'of about 40-50 years old, it is difficult to say at this juncture that there was a common cadre

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of all the officers including the Superintendents, Inspectors, and that they were subject to transfers.' The Exhibit A-1 is an extract of the Committee's report. It is not brought out that the said recommendations were accepted by the Government for implementation. The Salt Stations called the unit offices, and Salt factories are being kept under the charge of Inspectors (Group 'C') and Dy. Superintendents (Group 'B' NG). Though the Salt Stations are located in remote areas devoid of basic amenities. The department lease out the landed property to the public and vouch safe the interest of the union. The Staff in unit offices being the immediate officer are taking care of these Government lands, unauthorised occupation of Government vacant lands are common which are being removed by the staff with the assistance of local police.

9. Regarding duties it is stated that Exhibit B is an emanated one and it is exaggerative which is not supported by the notification of the Government. Similarly Exhibit -F is not authenticated and not notified by the Government but is an internal correspondence. Exhibit R- I is the copy of the duties notified in Salt manuals. The contention of onerous duties is not supported by any notification of the Government.

10. The Pay Commission did not comment in regard to the employees in Salt Department. The corresponding pay scale as notified by the Government were implemented.

11. The learned counsel for the respondents relied on 1992 SCC (L&S) 221 State of M.P. and another V/s Pramod Bhartiya and others and argued that burden to establish right to equal pay is on the person claiming the same. We agree with the said proposition of law.

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12. The said authority also lays down the proposition that the said principle is in applicable where distinction is based on qualitative difference in function and responsibilities, though qualification and service conditions of both categories as also status of two schools same.

13. The learned counsel for the respondents relied on (1994) 27 ATC 524 State of W.B. and others V/s Harinarayan Bhowal and others decided by the Apex Court on 16.3.1994 following the case of State of M.P. and another V/s Pramod Bhartiya and others which lays down the porposition as under:

The principle of "equal pay for equal work" can be enforced only after the persons claiming satisfy the court that not only the nature of work is identical but in all other respects they belong to the same class and there is no apparent reason to treat equal as unequals. Unless a very clear case is made out and the court is satisfied that the scale provided to a group of persons on the basis of the material produced before it amounts to discrimination without there being any justification, the court should not take upon itself the responsibility of fixation of scales of pay, specially when the different scales of pay have been fixed by Pay Commission or Pay Revision Committees, having persons as members who can be held to be experts in the field and after examining all the relevant material. It need not be emphasised that in the process undertaken by the court, an anomaly in different services may be introduced, of which the court may not be conscious, in the absence of

J.M. /



all the relevant materials being before it. Till the claimants satisfy on material produced, that they have not been treated as equals within the parameters of Article 14, courts should be reluctant to issue any writ or direction to treat them equal, particularly when a body of experts has found them not to be equal.

14. In the present case, as there is <sup>an</sup> evasive reply of the respondents regarding before 1948 in respect of the fact that the Salt Department was a part and parcel of Custom and Excise Department under the Ministry of Finance having a common cadre of all officer including inspectors, it is held that <sup>an</sup> evasive reply deserves to be overlooked and the claim of the applicants in this respect stands established.

15. The repeal of Central Excise and Salt Act 1944 and Rules there under in no way affects the merit of the case of either party as the relief sought was in respect of earlier periods while repeal is on 23.7.1996.

16. Report of the Vth Central Pay Commission Volume II para 72.26 (page 1215) is as under:

The pay parity between Inspectors of Salt and Central Excise Department, which was granted by the Madras High Court with effect from 1.7.1959 was maintained till the implementation of the Third CPC's recommendations. The pay scale of Excise Inspectors was enhanced to maintain parity with Inspectors of Income-tax, who were granted the higher pay scale of Rs. 500 - 900 by the Board of Arbitration on account of delegation of certain powers to them under the 'Summary Assessment Scheme'. To maintain

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traditional parity between Inspectors of Income-tax and Central Excise, the Fourth CPC granted them the pay scale of Rs. 1640 - 2900. Considering the issue in totality and in the light of our general recommendations on the pay scale of Supervisory posts involving direct recruitment of University graduates, we recommend a higher pay scale of Rs. 1600 - 2660 for Inspectors of Salt in present terms. There will be no change in the existing pay scale of Deputy Superintendent Salt (Rs.1640- 2900) as a result of this upgradation.

17. On perusal of the same we are of the considered opinion that matter regarding Inspectors of Salt and Deputy Superintendent Salt was under consideration and the recommendations are made in this respect.

18. Thus the Vth Pay Commission granted the scale to Inspector and up graded the scale and maintained the parity with Inspector of Income Tax alongwith Inspector of Central Excise. Not only this even the Hon'ble High Court of Madras in Writ Petition No. 259/79 decided on 15.3.1985 corrected the anomaly with effect from 1.7.1959 applying the principle of equal pay for equal work. The Inspector for Salt department which was earlier a part and parcel of Central Excise Department, drawing the same pay scale as the Inspector of Central Excise continued to draw the same scale of pay till the IIIrd Pay Commission. CAT Jodhpur Bench awarded the scale of Inspector of Income Tax to Inspector of Central Excise which was also agreed upon by the Vth Pay Commission. The matter remains only for the period of IVth Pay Commission.

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19. In the circumstances it is not necessary, in view of the judgement of Hon'ble High Court of Madras, Order of CAT Jodhpur and the recommendation of Vth Pay. Commission to examine their duties and responsibilities of Inspector of Salt. The respondents have raised the objections regarding mis-joinder of parties by alleging that Shri Gurucharan Singh who is Dy. Salt Commissioner and not the Inspector of Salt has been arrayed as applicant No.2 who has no grievance. The applicants tried to meet out the said objection by alleging that he was promoted as Dy. ~~Inspector of Salt~~ *Commissioner* and the period for which the relief is claimed was Inspector of Salt. Therefore he has been discriminated at the hands of respondents. Hence he has been added as applicant No.2. We agree to the stand taken by the applicant keeping in view the reliefs sought.

20. The respondents have raised the question of jurisdiction as the reliefs sought is with effect from 1.1.1980. The said question of pay scale is a recurring cause of action. The applicants may not be entitled for the same but they are certainly entitled for the relief which is within the limitation. Hence this ground also fails. We do not find any delay and laches on the part of the applicants for the reason that they were denied the benefits as they claimed vide Annexure A dated 16.12.1994. Hence there is no case that the application is barred by time or delay and laches, in favour of the respondents.

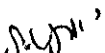
21. The applicants have stated that there is a resolution in their favour. Hence they are entitled to file the OA. We do not see any reason to dis-entitle the applicants for the same.


*J. G. -*

22. The defence of the respondents is that the staff who were in the cadre for the year 1947-48 is not in existence, the applicants are not one of them, hence the report of Patil Committee which has not been accepted by the Government has no significance. We agree with the said contention for the reason that until the recommendation of the Committee which are not agreed upon by the Government cannot be put into execution.

23. The applicant has filed OA 635/95. Their claim is from 1.1.1980. Their claim was rejected, which was in view of the decision by the Salt Department on 16.12.1994. This matter was being represented since 28.3.1990. We do not find any provisions under service rules that the representation was a necessity. In the circumstances the applicants may be granted the relief in respect of pay scale similar to Inspector Central Excise and Inspector Income Tax from 1.6.1994 as OA is filed on 15.6.1995.

24. In the result the OA deserves to be partly allowed and is allowed with a direction to the respondents to grant the same pay scale and all other benefits which are applicable to Inspector of Central Excise with effect from 1.6.1994. No order as to costs.

  
(S.L.Jain)  
Member(J)

  
\_\_\_\_\_  
(B.N.Bahadur)  
Member(A)

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

REVIEW PETITION NO: 30/2000 IN  
ORIGINAL APPLICATION NO: 635/95

the 10<sup>th</sup> day of JULY 2000

CORAM: Hon'ble Shri B.N. Bahadur, Member (A)

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

All India Salt Department  
Employees Union, Bombay Unit,  
Through Shri P. Hariram,  
General Secretary and others.

...Applicants.

V/s

The Union of India through  
The Secretary, Ministry of  
Industry, Department of  
Industrial Development,  
Udyog Bhavan, New Delhi and others.

...Respondents.

TRIBUNALS ORDER ON REVIEW PETITION BY CIRCULATION.

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

The applicants in OA 635/95 have filed this Review Petition under Rule 17 of the CAT (Procedure) Rules 1987 in respect of the order dated 5.5.2000 by which the OA is finally decided.

2. The ground of the Review is that the Tribunal has omitted to mention the date from which the parity in scale of pay between applicants and Inspectors of Central Excise, is to be given to the applicants, the pay of the applicants requires to be refixed in the scale of pay of Rs.500 - 900 with effect from 1.1.1980 onwards and increments granted annually and arrears to be paid to the applicants since then, the Tribunal has not specifically given any direction in its order to the respondents to place the applicants in pay scale of Rs. 500 - 900 and refix their basic pay and allowances since 1.1.1980, whether any arrears of pay due

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to refixation of pay in the scale of pay of Rs. 500 - 900 are to be given or not? The applicants pray that Review Petition be allowed, a clarification order in respect of order dated 5.5.2000 in OA 635/95 regarding date from which the applicants are entitled for their pay fixation in the same scale of pay (Rs. 500 - 900) as given to their counterparts in Central Excise department and their further entitlement of arrears of difference of Pay.

3. Suffice to state that the applicants have not gone into para 20, 21, 23 and 24 of the order. Had the said paras been perused by the applicants, the said contention must have not been raised in the Review Petition.

4. It is also one of the point of review that in Writ Appeal No. 209/79 delivered on 15.3.1985 by Hon'ble High Court of Madras, full and complete arrears of difference of pay were awarded to the Appellants. In review petition a re-hearing of the matter is not permissible.

5. If any clarification is necessary, which is a separate relief and not a review, the applicants are at liberty to put their grievance as per provisions of law. The mere apprehension that respondents shall not implement the order properly, cannot at this stage be a ground either for review or clarification.

6. In the result the Review Petition deserves to be dismissed without notice to the respondents and is dismissed accordingly.

M. S. Jain  
(S.L.JAIN)  
Member(J)

NS

B. N. Bahadur  
(B. N. BAHADUR)  
Member (A)

dt. 10/2/00  
order/Judgement despatched  
to Applicant/Respondent (s)  
on 19/2/00  
21/2/00

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

RP.NO.71/2000 in OA.NO.635/95

Dated this the 9<sup>th</sup> day of Feb., 2001.

CORAM : Hon'ble Shri B.N.Bahadur, Member (A)

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

All India Salt Department Employees'  
Union, Bombay Unit through Shri Panaroo  
Hariram, General Secretary & Ors.

... Applicants

V/S.

Union of India & 2 Ors.

... Respondents

Tribunal's Order by Circulation

This is a review application under Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987 in respect of the order passed by this Bench on 5.5.2000 in OA.NO.635/95 by the respondents.

2. The review application is filed on 28.11.2000 beyond the prescribed period for filing the review application which is 30 days as per Rule 17 (a) of the Central Administrative Tribunal (Procedure) Rules 1987. Along with the review application an application for condoning the delay in filing the review application (M.P.955/2000) along with date-wise steps taken by the respondents is filed, which is not signed by any official or even by the counsel for the respondents.

S.L.Jain

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3. In view of Section 29 (2) of the Limitation Act, 1963 which is reproduced below for ready reference, the provisions contained in Section 5 of the Limitation Act, 1963 applies :-

"29 (2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of Sec.3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in Secs. 4 to 24 inclusive shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law."

4. Thus the review petitioner has to establish 'sufficient cause' for not filing the review application within the prescribed period of limitation. Merely giving the details how the file moved, may be a fact, but why the file could not be moved, is a fact which can be considered as 'sufficient cause'. Leaving apart minute details it is suffice to state that the file remained from 7.7.2000 to 6.9.2000 in the Ministry of Commerce and Industry and the matter was examined in consultation with Ministry of Finance. If the matter cannot be examined for about two months by the Ministry, no reason coming forth for such delay, it cannot be termed that there was 'sufficient cause' for such delay or the respondents have taken active steps in the matter.

Sign' -

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5. The question of malafides or motive is not much relevant for considering the delay. The allegation that "the delay is squarely due to unavoidable lengthy administrative procedure of the Government and nothing else" cannot be an excuse for sufficient cause. All attempts should be made to do the things within the prescribed period and if in an attempt, the respondents are prevented by unforeseen reasons beyond their control that can be a 'sufficient cause' and not otherwise.

6. In our considered view review petition is barred by time and is liable to be rejected as such and is rejected accordingly.

*S.L. Jain*  
(S.L. JAIN)

MEMBER (J)

*B.N. Bahadur*  
(B.N. BAHADUR)

MEMBER (A)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 635/95

Date of Decision :

9<sup>th</sup> October 2002

All India Salt Dept. Emp.  
Union & Ors.

Applicant

Shri S.P.Saxena

Advocate for the  
Applicant.

VERSUS

Union of India & Ors.

Respondents

Shri V.S.Masurkar

Advocate for the  
Respondents

CORAM :

The Hon'ble Shri B.N.Bahadur, Member (A)

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

- (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.635/95

Dated this the 9<sup>th</sup> day of October 2002.

CORAM : Hon'ble Shri B.N.Bahadur, Member (A)

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

1. All India Salt Department  
Employees Union, Bombay Unit  
through Shri Panaroo Hariram,  
General Secretary, for an on  
Behalf of member constituent.
2. Shri Gurcharn Singh,  
Dy.Suptd.of Salt,  
C/o Deputy Salt Commissioner,  
Bombay.
3. Shri Ranadip Goswami,  
Inspector of Salt,  
C/o Deputy Salt Commissioner,  
Bombay.

...Applicants

By Advocate Shri S.P.Saxena

vs.

1. Union of India  
through Secretary,  
Ministry of Industry,  
Department of Industrial Development,  
Udyog Bhavan, New Delhi.
2. Salt Commissioner,  
Govt. of India,  
Lavan Bhavan, 2-A Lavan Marg,  
Jhalan Doongri, Jaipur.
3. Deputy Salt Commissioner,  
Govt. of India,  
Exchange Bldg., 4th Floor,  
Sprott Road, Ballard Estate,  
Bombay.

...Respondents

By Advocate Shri V.S.Masurkar

Ref -

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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 seeking direction to the respondents to apply the same pay scale and all other attendant benefits applicable to the Inspectors of Central Excise with retrospective effect from 1.1.1980.

2. There was a parity between the pay scales of the applicants under the First Pay Commission which was disturbed by the Second Pay Commission by recommending Higher Pay Scales for Central Excise staff. This was corrected by the Staff Re-Organisation Union with effect from 1.4.1966 and 1.4.1967 instead of 1.7.1959. The Madras High Court corrected the said anomaly and made it applicable with effect from 1.7.1959 on the principle of equal pay for equal work in Writ Petition No.259/79 decided on 15.3.1985. There was a parity between the two categories under the Third Pay Commission which fixed the Pay Scales at Rs.425-700. In Fourth Pay Commission disparity again came to the existence since the pay scales of the Inspectors of Central Excise was upgraded in view of judgement of Central Administrative Tribunal, Jodhpur.

3. Para 72.26 of the Report of Fifth Central Pay Commission Report is extracted below :-

S.L.J. -

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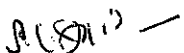
"72.26 The pay parity between Inspectors of Salt and Central Excise Department, which was granted by the Madras High Court w.e.f.1.7.1959 was maintained till the implementation of the Third CPC's recommendations. The pay scale of Excise Inspectors was enhanced to maintain parity with Inspectors of Income-tax, who were granted the higher pay scale of Rs.500-900 by the Board of Arbitration on account of delegation of certain powers to them under the 'Summary Assessment Scheme'. To maintain traditional parity between Inspectors of Income-tax and Central Excise, the Fourth CPC granted them the pay scale of Rs.1640-2900. Considering the issue in totality and in the light of our general recommendations on the pay scale of Supervisory posts involving direct recruitment of University graduates, we recommend a higher pay scale of Rs.1600-2660 for Inspectors of Salt in present terms. There will be no change in the existing pay scale of Deputy Superintendent Salt (Rs.1640-2900) as a result of this upgradation.

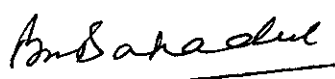
4. Perusal of the same makes it clear that the pay scale of Excise Inspectors was enhanced to Rs.500-900. The prior pay scale was Rs.425-700. On perusal of Central Civil Services (Revised Pay) Rules, 1985 based on IVth Pay Commission Report, three existing scales - namely 425-15-560-EB-20-640, 425-15-560-20-700 (S.G.Auditors in I.A.A.D.) and 455-15-560-EB-20-700 were merged and new scale of Rs.1400-40-1800-50-2300 was granted. As the scale granted to Inspectors of Income Tax was Rs.500-900, accordingly the pay scale of Inspector of Central Excise is enhanced and in IVth Central Pay Commission it is fixed to Rs.1640-2900. A scale of Rs.1600-2660 for Inspector of Salt was recommended by the Vth C.P.C. As the scale which the applicants were enjoying is Rs.425-700, the existing new scale in IVth Pay Commission is Rs.1400-40-1800-50-2300 but the Vth Pay Commission recommended the scale of Rs.1600-2660 which arises on merger of three scales namely Rs.550-20-650-25-700, 550-20-650-25-750 and 550-20-650-25800. Thus, there is an enhanced scale for Inspector of Salt 1600-2660 which though not at par with Inspectors of Excise and Inspectors of Central Excise as there scale is Rs.1640-60-2600-75 -2900 and the earlier scale was Rs.500-20-700-EB-25-900.

5. The above referred scale are the scales allowed to be operative in view of IVth Central Pay Commission and not the Vth Central Pay Commission. Inspector of Salt whose present scale was Rs.1400-40-1800-EB-50-2300 was given a scale of Rs.5000-150-8000 by the Vth Central Pay Commission.

6. As the enhanced scale on account of delegation of certain powers to Inspectors of Income Tax was provided and to maintain traditional parity between Inspectors of Income-Tax and Inspectors of Central Excise were granted by the IVth C.P.C., normally the same principle ought to have been applied in case of Inspector of Salt which was not applied by the Vth Pay Commission probably for the reason that on account of delegation of certain powers, i.e. Summary Assessment Scheme. As the Pay Commission is an Expert Body dealing with such matters and on an issue of equal pay for equal work our hands are tight in awarding the similar scale in view of the Apex Court judgements on the point, we are of the considered opinion that what the Vth Central Pay Commission has concluded deserves to be acted upon by the respondents. As there is no Scale like Rs.1600-2660 in Vth C.P.C., reference by Vth C.P.C. is to the scale of IVth C.P.C. and it appears to be an inadvertent error.

7. In the result, the OA. is partly allowed with the direction to the respondents to grant the pay scale of Rs.1600-2660 to Inspector of Salt and all other attendant benefits with effect from 1.1.1980. However, monetary benefits are limited to w.e.f.1.6.1994. No order as to costs.

  
(S.L.JAIN)  
MEMBER (J)

  
(B.N.BAHADUR)  
MEMBER (A)

order/judgment despatched  
to Applicant's representative(s)  
on 24/11/02

RP No. 13/03  
alongwith MP  
No. 124/03 for  
condonation of  
delay.

Per  
24/2

Per  
3/3/2013

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

REVIEW PETITION NO:13/2003  
ORIGINAL APPLICATION NO:635/95

CORAM: Hon'ble Shri B.N. Bahadur - Member (A)  
Hon'ble Shri S.L. Jain - Member (J)

All India Salt Department Employees Union ...Applicants  
V/s

Union of India and others ...Respondents.

TRIBUNAL'S ORDER ON REVIEW PETITION BY CIRCULATION

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

DATED: 28<sup>th</sup> Feb, 2003

The respondents have filed the Review application under Rule 17 of CAT Procedure Rules 1987 for Reviewing the order passed by this Tribunal in OA 635/95 dated 9.10.2002.

2. The respondents states that copy of the order was received on 25.11.2002, was sent to Headquarters office at Jaipur for further action in the matter vide letter dated 27.11.2002, the Commissioner vide letter dated 11.12.2002 directed the Mumbai Office to contact the Law Ministry and based on their advise filed the Review Petition. Accordingly the Law Ministry was approached vide letter dated 16.12.2002 and thereafter approached the Government counsel on 5.2.2003 for drafting Review Petition, who drafted the same on 10.2.2003 and filed the same on 14.2.2003.

3. It is true that the respondents have elaborately mentioned the facts what has happened after passing the order in OA. The ground raised for sufficient cause is lengthy

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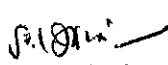


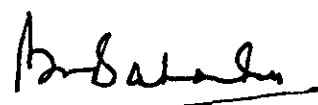
administrative procedure and not intentional or motivated. Suffice to say that the lengthy procedure of the respondents in dealing with the matter not timely but sitting over the matter is curtailed by CAT Procedure Rules 1987 by providing 30 days time for filing Review Petition. If a time is prescribed by CAT Procedure Rules 1987 which are promulgated in view of the powers under Administrative Tribunals Act 1987 with concurrence of the Parliament, the delay cannot be condoned.

4. Sufficient cause means a cause beyond the control of the person concerned. In our considered opinion we are unable to find out sufficient cause in the said case. As such the Review Petition is barred by time and deserves to be dismissed solely on this ground.

5. Without adding, modifying or subtracting the order passed in OA we reiterate that the scale of Rs. 1600 - 2600 is applicable with effect from IV th Central Pay Commission i.e. 1.1.1986. The order deserves to be read as a whole and keeping in view para 7 of the order the effect is to be given with effect from 1.1.1986.

6. In para 4 of the order passed in OA, last but five line "25800" and in <sup>para 7</sup> last but one line "1980" is mentioned which is a typing mistake and is to read as "800" and "1986" only.

  
(S.L. Jain)  
Member (J)

  
(B.N. Bahadur)  
Member (A)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELATE JURISDICTION

WRIT PETITION NO. 1366 OF 2000.

2001

Recd on  
23/7/03

145  
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1. All India Salt Department  
Employees Union, Bombay Unit,  
Through its General Secretary  
Shri. Panaroo Hariram,  
C/o: Deputy Salt Commissioner,  
4th Floor, Exchange Bldg,  
Sportt Road, Ballard Estate,  
Bombay- 58.

2. Bhikaji Sakharan Mhetar,  
Havildar,  
C/o: Deputy Salt Commissioner,  
4th Floor, Exchange Bldg,  
Sportt Road, Ballard Estate,  
Bombay- 38.

3. Shri. Vinayak Maruti Vichare,  
Sepoy, Wadala Salt Factory,  
Antop Hill, S.M.Road, Bombay.

..PETITIONERS.

VERSUS.

1. Union of India,  
Through Its Secretary,  
Department of Industrial  
Development, Ministry of  
Industry, Udyog Bhavan,  
New Delhi - 110011.

2. The Salt Commissioner,  
Lavan Bhawan, 2A Lavan Marg,  
Jhallana Doongri, Jaipur.

3. The Deputy Salt Commissioner,  
4th Floor, Exchange Building,  
Sportt Road, Ballard Estate,  
Mumbai - 38.

..RESPONDENTS.

Shri. S. P. Saxena for the petitioner.

Shri. M. S. Karnik for the respondent - Union of  
India.

CORAM: V.G. PALSHIKAR &  
V.M. KANADE, JJ.

DATE: JULY 7, 2004.

Oral Judgment (Per V.M. Kanade, J.) :-

1. The Petitioner No.1 is the recognised union of the employees of the Salt Department of Bombay Region. The Petitioner Nos.2 & 3 are the employees under the control of the Respondent No.3. The petitioners in the present petition are challenging the order dated 5th May 2000 passed by the Central Administrative Tribunal in Original Application No. 636 of 1995 whereby their application was partly allowed from 1.6.1994 and their claim from 1.1.1980 was rejected.

FACTS:

2. The case of the Petitioners is that till August 1947 the Salt Department was the part and parcel of the Department of Customs and Central Excise having a common cadre of all officers including the inspectors, Sepoys and Havildars. However, there was bifurcation in August 1947. The grievance of the petitioner is that though upto the recommendation of the third pay commission, the Sepoys and Havildars in the Salt Department and Central Excise Department were

## SUBMISSIONS:

3. Learned counsel appearing on behalf of the petitioners vehemently argued that till the recommendation of the third pay commission equal pay was paid to the employees of both departments though the department was bifurcated in the year 1947. The nature of work performed by them was similar. He submitted that the Fourth Pay Commission without any rational and jurisdiction disturbed the parity of pay scales and this has created disparity. It was further submitted that the Central Administrative Tribunal in an application filed by Inspector, Deputy Superintendents of Salt Department had directed the respondents to place the Salt Department Inspectors and Deputy Superintendents in the same pay scale which was given to the Inspectors and Deputy Superintendents of the Central Excise Department. It was, therefore, submitted that on the same analogy the petitioners are also entitled to the same pay scale of sepoys and havildars of the Central Excise Department.

4. The learned counsel appearing on behalf of the respondent vehemently opposed the said submission made by the learned counsel appearing on behalf of the petitioner. He submitted that the

paid the same pay scale, this was not continued by the fourth pay Commission. The petitioners case is that either due to non application of mind or inadvertence on the part of the Salt Department, special recommendation for higher grade was made only for the Sepoys and Havildars employed only in Excise Department and this benefit was not extended to the Sepoys and Havildars in the Salt Department. The contention of the petitioner in their application was that the duties of the Sepoys and Havildars in the Salt Department and Excise Department were same and identical and therefore they were entitled for the equal pay for the equal work done by them. Therefore, they filed an application before the Central Administrative Tribunal. The tribunal, however, held that though the cadre is same the duties performed by them cannot be said to be similar in nature. The Tribunal relying on the judgment of the Apex Court reported in (1994) 27 ATC 524 in the case of **State of West Bengal and others V/s. Harinarayan & others** held that the applicants had not satisfactorily proved that the duties performed by them and the duties performed by the sepoys and havildars in the Central Excise Department are same and therefore dismissed the petition.

## SUBMISSIONS:

3. Learned counsel appearing on behalf of the petitioners vehemently argued that till the recommendation of the third pay commission equal pay was paid to the employees of both departments though the department was bifurcated in the year 1947. The nature of work performed by them was similar. He submitted that the Fourth Pay Commission without any rational and jurisdiction disturbed the parity of pay scales and this has created disparity. It was further submitted that the Central Administrative Tribunal in an application filed by Inspector, Deputy Superintendents of Salt Department had directed the respondents to place the Salt Department Inspectors and Deputy Superintendents in the same pay scale which was given to the Inspectors and Deputy Superintendents of the Central Excise Department. It was, therefore, submitted that on the same analogy the petitioners are also entitled to the same pay scale of sepoys and havildars of the Central Excise Department.

4. The learned counsel appearing on behalf of the respondent vehemently opposed the said submission made by the learned counsel appearing on behalf of the petitioner. He submitted that the

nature of duties performed by the petitioners and their counter parts in the Central Excise Department was entirely different. He submitted that the Tribunal had held that the petitioners had not proved satisfactorily that the work performed by them was similar and identical to the work performed by their counter part in the Central Excise Department.

#### FINDINGS:

5. We have heard at length the learned counsel for both the sides. Perused the order passed by the Tribunal. In our view, the order passed in the case of the Inspectors and Deputy Superintends of Salt Department cannot be equated with that of the petitioners who are working as sepoy and havildars. The tribunal has come to the conclusion that the petitioners have not satisfactorily proved that the conditions of service are same. The tribunal has further relied on the judgment of the Apex Court reported in (1974) 27 AIC 524 (supra). In our view, the order of the tribunal does not suffer from any jurisdictional error or any infirmity. The Apex Court in the aforesaid case has cautioned the tribunal from taking up the responsibility of fixation of pay scale, especially when different scales of pay has been

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HC

granted by the Pay Recommendation Commission. The Apex Court has observed that the members of such committees who are held to be experts in the field had fixed the scales after examining all the relevant materials. It is an admitted position that the Fifth Pay Commission Report is also not in favour of the petitioners. Thus, there is no reason to interfere with the order passed by the tribunal by exercising our jurisdiction under Article 226 & 227 of the Constitution of India. The petition is therefore, dismissed. Rule is discharged.

(V. G. PALSHIKAR, J.)

(V.M.KANADE, J.)

TRUE COPY

(123) 22/12/04  
Assistant Registrar  
High Court, Appellate Side  
Bombay.  
18/12/04



**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL****MUMBAI BENCH****R.P. No. OF 2003****IN****O.A. No. 635 OF 1995**

All India Salt Department Employees Union ) .. Applicants

VERSUS

Union of India &amp; Others. ) .. Respondents

**AFFIDAVIT IN SUPPORT OF REVIEW PETITION**

I, DHANNALAL MEENA having my office at office of the Deputy Salt Commissioner, Exchange Building, 4<sup>th</sup> Floor, Sir Shivsagar Ramgulam Marg, Ballard Estate, Mumbai - 400 001 do hereby state on solemn affirmation as under:

1. I say that I have filed a Review Petition in the subject matter. I have stated in detail the reasons for filing the Review Petition itself. I say and submit that the respondents have very good case in the Review Petition since there are serious errors apparent on the face of the judgements.
2. I say that to save repetition of the same contention again and again and for the sake of brevity I repeat and reiterate whatever stated in the Misc. Petition for condonation of delay in verbatim.

Whatever is stated hereinabove is true and correct to the best of my knowledge and belief.

Solemnly affirmed at Mumbai.

On this 4<sup>th</sup> day of February 2003.

  
Deponent

  
(VINAY S. MASURKAR)

Addl. Central Govt. Sr. Standing Counsel For the Respondents.

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH**

**M.P. No. /29 OF 2003**

**IN**

**O.A. No. 635 OF 1995**

All India Salt Department Employees Union. ) .. Applicants

Versus

Union of India & Others. ) ... Respondents.

**MISC. PETITION FOR CONDONATION OF DELAY IN FILING  
REVIEW PETITION UNDER SECTION 22(f) OF THE  
ADMINISTRATIVE TRIBUNAL ACT, 1985, FOR AND ON BEHALF  
OF THE ORIGINAL RESPONDENTS FOR REVIEW OF THE  
JUDGEMENT AND ORDER DATED 9-10-2002.**

To,

Hon'ble Vice-Chairman and  
Other Members of this Hon'ble Tribunal,  
C.A.T. Mumbai Bench.

The Humble Misc. Petition on behalf of the Respondents.

**MOST RESPECTFULLY SHEWETH:**

1. The O.A. filed by the applicants was allowed vide Judgement and order dated 9-10-02.

In the result, the OA, is partly allowed with the direction to the Respondents to grant the pay scale of Rs. 1600-2660 to Inspector of Salt and all other attendant benefits w.e.f. 1-1-1980. However, monetary benefits are limited to w.e.f. 1-6-1994,. No order as to costs.

2. The Respondents submit that the copy of main judgement was received in this case on 25-11-2002 in the office of the Respondents at Mumbai office. According to the procedure the said judgement with the covering letter was sent to the Head Quarter Office at Jaipur for further action in the matter vide letter dated 27-11-2002. The office of the Salt Commissioner has examined the matter for implementation or otherwise and vide their letter dated 11-12-2002 directed to the Mumbai office to contact the Law Ministry and based on their advice file a Review Petition seeking amendments to the judgement. Accordingly the Law Ministry was approached vide Respondents letter dated 16-12-2002 and thereafter it was decided to approach the Hon'ble Tribunal for review of the said judgement since there are serious factual and legal errors apparent on the face of records.

3. The Mumbai office after preparing all the necessary papers have approached the Govt. counsel on 5-2-2003 for drafting review petition and other necessary pleading in the case. The Govt. Counsel handed over the drafts on 10-2-2003. After finalising the same with the Ministry of Law and Mumbai office the review petition was filed immediately. However there is delay of about two months and hence the present Misc. Petition for

condonation of delay in the interest of justice along with the affidavit in support of the same.

4. The Respondents respectfully submit that the delay in filing review petition is due to lengthy administrative procedure and not intentional or motivated and hence the delay of about 2 months may be condoned and the Misc. Petition be allowed and Review Petition be heard on merit.
5. The copy of the Misc. Petition is served on the Counsel for the Applicant. The balance of convenience is squarely in favour of the Respondents and hence present Review petition be allowed in the interest of justice.

THE RESPONDENTS, THEREFORE PRAY :

- (a) that this Hon'ble Tribunal be pleased to condone the delay of about two months in filing the review petition to review its judgement and order dated 9-10-2002.
- (b) Any other and further orders as this Hon'ble Tribunal deems fit and proper in the circumstance of the case may require;
- (c) Cost of the Misc. Petition be provided for.

#### VERIFICATION

I, DHANNALAL MEENA having my office at office of the Deputy Salt Commissioner, Exchange Building, 4<sup>th</sup> Floor, Sir Shivsagar Ramgulam Marg, Ballard Estate, Mumbai - 400 001 do hereby state on solemn affirmation that whatever stated in Misc. Petition is true to my personal

knowledge and belief as revealed from the perusal of the official record on the subject and also state that no material aspects has been suppressed.

PLACE; MUMBAI

DATE: 14-2-2003

  
FOR RESPONDENTS

  
(VINAY S. MASURKAR)

COUNSEL FOR THE RESPONDENTS.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

C.P. No.59 OF 2000

IN

ORIGINAL APPLICATION No.635 OF 1995

ALL INDIA SALT DEPARTMENT EMPLOYEES UNION... APPLICANTS.

VERSUS

UNION OF INDIA & 2 OTHERS

....RESPONDENTS.

AFFIDAVIT ON BEHALF OF THE RESPONDENTS.

I, H.K.Sharma, Asst.Salt Commissioner, having my office at Exchange Building, 4th. Floor, Sir S.R. Marg, Ballard Estate, Mumbai 400 001, do hereby state on solemn affirmation as under:


1. I say that this Hon'ble Tribunal vide order dated 23-7-2001 has directed the Respondents to file reply to the Contempt Petition and hence this affidavit.
2. I say that the Respondents have received a ordinary copy of judgement or order dated 25.07.2001 in W.P. No.1168/2001 which is placed at Ex-R-1 for quick reference.

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In the light of the aforesaid position, the respondents respectfully submit that the Contempt Petition does not survive and hence the Contempt Petition be dismissed and notices on the Contempt Petition be discharged.

Solemnly affirmed at Mumbai. )

On this 26<sup>th</sup> day of July.2001. )

  
26/07/2001.

**DEPONENT.**

  
(Vinay S. Masurkar.)

**Counsel for the Respondents...**