

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO.1069/1995

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this the 20 day of July, 2000

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

- 1, Junior Engineers Association, P.W.D. Office,
Dadra & Nagar Haveli,
Silvassa-396 230.
2. Kiran B.Gandhi ,President of
Association,
Dadra Nagar Haveli, Silvassa
Pin Code 396230. Applicants

(By Advocate Sri Suresh Kumar) ☺

vs.

1. Union of India,
through the Secretary,
Ministry of Home Affairs,
New Delhi.
2. Ministry of Urban Development,
through the Secretary,
Works Division, New Delhi.
3. Administrator of Daman & Diu
Dadra & Nagar Haveli.
4. Superintendeing Engineer,
Daman Circle Office P.W.D.
Moti Daman. .. Respondents

(By Advocate Sri V.S.Masurkar)

O R D E R

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

The applicant No.1 is the Junior Engineers Association PWD Office, Dadra and Nagar Haveli and Applicant No.2 is the President of the said Association. The applicant No.1 is stated to have authorised the applicant No.2 to take up the case on behalf of the first Applicant Association.

2. The grievance of the Association is that the respondents

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are denying to the Junior Engineers of the PWD of the Union Territory of Dadra & Nagar Haveli the higher pay scales of Rs.1640-2900 to those Junior Engineers who have completed 5 years of service and that of Rs.2000-3500 to those who have completed 15 years of service as granted to the Junior Engineers of C.P.W.D. The applicants have alleged that the J.Es of the U.T. of Dadra & Nagar Haveli were from 6.3.70 onwards in the same pay scale of Rs.425-700 as the J.Es of C.P.W.D., that their duties and responsibilities were also similar, that the IV Central Pay Commission have recommended creation of promotional posts to J.Es and that the action of the respondents denying them higher pay scale to J.Es of P.W.D. of Dadra and Nagar Haveli while granting the same to the J.Es of C.P.W.D. amounts to hostile discrimination and is wholly unjustified. It is further alleged that the J.Es of U.T. of Pondicherry have been given the benefit of the higher scales and that the J.E. of U.T. of Chandigarh are on much higher scales. To deny the benefit to the J.E. of U.T. of Dadra and Nagar Haveli alone cannot at all be justified. With these allegations, the applicants pray that the respondents be directed to extend to the J.Es of Dadra & Nagar Haveli PWD the benefit of the higher scale on par with the J.Es of the C.P.W.D with effect from 1.1.86 in implementation of the recommendations of the 4th Central Pay Commission.

3. The respondents contest the claim of the applicants. They contend that the Application is not maintainable as no resolution by the Association authorising the applicant to file the application has been placed on record and as there is no nexus between the applicants and the prayer, for it is not stated whether the second applicant holds any post in the P.W.D. of

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Dadra & Nagar Haveli. On merits they contend that there is no basis for the claim, that the Fourth Central Pay Commission recommended higher pay scales on completion of certain periods to the J.Es of the Ministry of Labour Development and P&T taking into account of the fact that Selection Grade which was in existence stood abolished. Promotion chances were less, and the nature and degree of duties and responsibilities, that in the case of the J.Es of the U.T. of Dadra & Nagar Haveli, no such recommendation was made by the IVth Central Pay Commission as there was no Selection Grade for them, that the Union of India has not accepted the claim for the higher pay scales to the J.Es of the U.T. of Dadra & Nagar Haveli, nor have they agreed to the proposal of granting the same to J.Es of U.T. of Pondicherry and that as determination of pay scales to posts and services, are to be done by the Government, taking into account various aspects and that as the report of the Vth Central Pay Commission is awaited, the Tribunal may not interfere.

4. We have heard the arguments of the learned counsel for the parties at considerable length. The allegation raised by the respondents that the application is not maintainable, since the applicants have not placed on record any resolution, and that as no person aggrieved is on the array of applicants as the applicants have not stated whether the second applicant is holding any post, has considerable merit. Though an association may join the application with a Government servant who has a specific grievance to be redressed without the person really aggrieved as one of the applicants, an application would not be entertained. However, as the application has been admitted and kept pending for all these years, we would consider the same on merits.

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5. The learned counsel of the applicant argued that the respondents have failed to implement the recommendations of the IVth Central Pay Commission in respect of the J.Es. of the Union Territory of Dadra & Nagar Haveli while the same has been implemented in respect of J.Es of C.P.W.D. and other Union Territories like Pondicherry and Chandigarh, and that the action is arbitrary and discriminatory. Learned counsel of the respondents argued that it is incorrect to say that the respondents have not given effect to the recommendations of the IV Central Pay Commission regarding pay scale of the J.Es of the P.W.D. of Union Territory of Dadra and Nagar Haveli, because the Junior Engineers have been granted the pay scale recommended by the IVth Central Pay Commission. Regarding higher pay scale granted to the Junior Engineers of the C.P.W.D. and the claim of the applicants for parity, the learned counsel of the respondents argued that while the IVth Central Pay Commission has recommended creation of promotional grades for Junior Engineers in the Ministry of Urban Development and P&T, taking into account of the fact that the selection grades stood abolished as also lack of promotional avenues and duties and responsibilities, no such specific recommendation has been made in the case of J.Es of the Union Territory of Dadra and Nagar Haveli and that, therefore, there is no basis for the contention that the recommendations of the 4th Central Pay Commission has not been implemented in their case. Regarding the claim of the applicants for parity with J.Es of U.T. of Chandigarh, the learned counsel argued that the Chandigarh Administration has followed the Punjab pattern of pay scale and the applicants cannot claim parity with them. Further referring to the argument of the applicants that the J.Es of the U.T. of Pondicherry have been granted higher pay scale as is granted to

the J.Es of the C.P.W.D., the learned counsel argued that the Union of India have not accepted such proposal and therefore the applicants' claim has no legal basis.

6. We see considerable force in the arguments of the learned counsel of the respondents. It is incorrect to say that the recommendations of the 4th Central Pay Commission have not been implemented in the case of the J.Es of Dadra and Nagar Haveli, because they have been granted the pay scale recommended by the Commission for J.Es of the C.P.W.D. However the higher grades were given to the Junior Engineers of the C.P.W.D. taking into account the duties and responsibilities, the fact that the selection grades which were available to them stood abolished and the lack of promotional avenues. No such specific recommendation was made in the case of J.Es of the Union Territory of Dadra and Nagar Haveli .Therefore, the respondents cannot be faulted for not giving them such higher grades. As the Union Territory of Chandigarh has followed the Punjab pattern of pay scale, the applicants cannot seek parity with them. Though the respondents have contended that the Government of India has not accepted the proposal for higher pay scale for J.Es of Pondicherry, the applicants have not been able to substantiate that higher pay scale have been granted to the J.Es of Pondicherry with concurrence of the Government of India. It is to be noted that the Vth Central Pay Commission also did not recommend higher pay scale for the J.Es of U.T. of Dadra and Nagar Haveli on par with the J.Es of the C.P.W.D. Prescription of pay scales for various posts in the Government lies in the realm of the Government taking

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into account various relevant factors, like the promotional avenues, degree of duties and responsibilities, recruitment qualification etc. and aided by reports of Expert Committees like the Pay Commission. The Tribunal does not have the expertise to prescribe the pay scales.

7. In the light of what is stated above, we do not find any merit in this application and therefore we dismiss the same, leaving the parties to bear their own costs.

GOVINDAN S. TAMPI)
MEMBER (A)

(A.V.HARIDASAN)
VICE CHAIRMAN

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