

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH  
AT HYDERABAD

O.A.No. 19/1990

Date of order: 23-7-1992.

Between

1. D.E.Prakasham
2. N.J.Naidu
3. N.A.Narayana
4. V.Lakshmipathy

... APPLICANTS

A N D

1. The Govt. of India,  
Baba Atomic Research Centre,  
rep. by its Sr.Admn. Officer,  
Trombay, Bombay-85.
2. Govt.of India,  
Dept. of Atomic Energy,  
Anushakti Bhavan, Bombay-39.
3. Dy.Chief Executive,  
Nuclear Fuel Complex, Hyderabad.
4. The Manager,  
Personnel and Admn. Dept.,  
Nuclear Fuel Complex, Hyderabad-500762.

... RESPONDENTS

Appearance:

For the applicants : Smt.Vinobha Devi, Advocate  
For the Respondents : Sri N.Bhaskara Rao, Addl.CGSC

CORAM:

The Hon'ble Mr.R.Balasubramanian, Member (Administration)  
The Hon'ble Mr.C.J.Roy, Member (Judicial)

contd...2.

JUDGMENT  
ORDER OF THE BENCH DELIVERED BY THE HON'BLE SRI R.BALA-  
SUBRAMANIAN, MEMBER (ADMN.).  
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This application is filed by Sri D.E.Prakasham and three others against the Baba Atomic Research Centre (B.A.R.C.) under Section 19 of the Administrative Tribunals Act, 1985. The prayer is to declare the action of the first Respondent in prescribing the revised pay/scales and fixing the promotional avenues as arbitrary and illegal and to direct the Respondents to modify or revise the norms suitably after giving due opportunity to the applicants.

2. The applicants joined the Respondents' Organisation as Drivers-cum- Operators by an order dated 31-1-1983. The Respondents converted the posts of Fire Service Station from Auxillary to Scientific (technical) cadre. The first Respondent also revised the norms for recruitment and promotion in respect of Fire Service Personnel by its proceedings dated 10-3-83 which were later revised by proceedings dated 17-5-85. It is stated that the applicants, through their union, made several representations to the respondents herein but no orders were passed till now. Having no other remedy, the applicants have approached this Tribunal with this O.A. The applicants are aggrieved with the action of the first respondent providing promotional avenues to the Tradesmen in the Instruments and Civil Trades which are <sup>on</sup> non-production side, once every two to three years whereas such promotions are ~~not~~ available to the likes of the applicants only after a gap of nine years. It is their case that the duties of the fire service staff are more onerous than the tradesmen discipline.

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3. The respondents have filed a counter affidavit and opposed the Application. The Trombay Scientific Committee, BARC had earlier constituted a sub-committee to examine the proposal for conversion of the existing posts in the Fire Service Section into technical/scientific cadre. The said committee evaluated the work of various cadres and submitted its recommendations which were accepted. The pay/scales were revised accordingly after approval by the Department of Atomic Energy. The various recommendations accepted are justified by them based on the level of responsibility and the nature of jobs of various cadres.
4. The applicants have filed a reply affidavit which is more or less repetition of what they have said in the O.A.
5. The case was dismissed on 24-6-1992 for default on the part of the applicants. Subsequently, M.A. 720/92 was filed by the applicants for restoring the case. On ~~17~~<sup>20</sup>-7-92 we allowed the M.A. 720/92 and restored the case to file. We heard both the sides on 17-7-92 as well as on 20-7-92.
6. We find from a comparative statement given in the O.A. (page 13) that the Driver-cum-Operator (B) has been on par with Leading Fireman (A), both before and after the pay revision. There is a comparative statement given by the Respondents and from page 3 of the counter the same observation is confirmed. The learned counsel for the applicants was claiming that applicants who are drivers-cum-operator (A) should also be given the scale of Rs.330-480 (revised to Rs.1200-1800) like the Leading Fireman (A). But we find that at all points of time, the Leading Fireman (A) had been on the same footing as Driver-cum-Operator (B) whereas the Driver-
- Ans*
- P38*

cum-Operator (A) is on lower footing in the scale of Rs.320-400 (revised to Rs.1150-1500). Thus, the change has not brought out any disadvantage to the cadre of Driver-cum-Operator (A) to which the applicants belong. As regards the time gap between promotion from one stage to the other in the various cadres, these are matters purely left to the Department <sup>whole job it is to</sup> provide suitable ~~for~~ promotional avenues consistent with the requirements of the administration. On this point, while three citations were given by the learned counsel for the applicants we will refer to a decision of the Hon'ble Supreme Court reported in AIR 1992 SC 1203 on which both the learned counsel for the applicants and the respondents chose to rely. In this decision dated 20-2-1992, a 2-judge bench of the Hon'ble Supreme Court ~~was~~ observed as under:


"It is well settled that equation of posts and determination of pay scales is the primary function of the executive and not the judiciary and, therefore, ordinarily courts will not enter upon the task of job evaluation which is generally left to expert bodies like the Pay Commissions, etc. But that is not to say that the Court has no jurisdiction and the aggrieved employees have no remedy if they are unjustly treated by arbitrary State action or inaction. Courts must, however, realise that job evaluation is both a difficult and time consuming task which even expert bodies having the assistance of staff with requisite expertise have found difficult to undertake sometimes on account of want of relevant data and scales for evaluating performances of different groups of employees. This would call for a constant study of the external comparisons and internal relativities on account of the changing nature of job requirements. Several factors have to be kept in view while evolving a pay structure and the horizontal and vertical relativities have to be carefully balanced keeping in mind the hierarchical arrangements, avenues for promotion, etc. Such a carefully evolved pay structure ought not to be ordinarily disturbed as it may upset the balance and cause avoidable ripples in other cadres as well."

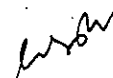
There is a subsequent 3-judge bench decision of the Hon'ble Supreme Court, dated 13-3-1992 reported in Judgment Today 1992 (3) SC 309 wherein it had been observed:

"Promotion policies -- Tribunal or Court not to interfere and dictate the avenues of promotion. It is for the Department to decide on policies of promotion consistent with the interests of employees. Court will interfere if there is arbitrariness or resultant discrimination."

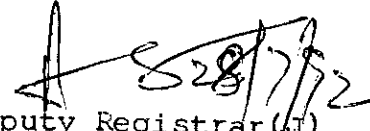
From both the above <sup>it is seen</sup> judgements, Courts can interfere only where there is arbitrariness or resultant discrimination. As stated elsewhere in the judgment, we find that both before and after the conversion of the cadres, there is no discrimination against the cadre of Driver-cum-Operator (A).

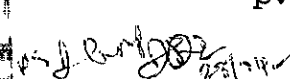
7. There is another aspect to this case namely limitation. Even taking the order PA/94(17)/85-R-I dated 17-5-1985 as the impugned one, the application itself is filed only in January 1990. Thus, this case apart from lacking merits, is also hit by limitation. Summing up, we dismiss the case with no order as to costs.

  
(R. Balasubramanian)  
Member (A)

  
(C. J. Roy)  
Member (J)

dated: 23<sup>rd</sup> day of July, 1992.

  
Deputy Registrar (J)

- To mhb/
1. The Sr. Administrative Officer, Govt. of India, Baba Atomic Research Centre, Trombay, Bombay -85.
  2. The Govt. of India, Dept. of Atomic Energy, Anushakti Bhavan, Bombay-39.
  3. The Dy. Chief Executive, Nuclear Fuel Complex, Hyderabad.
  4. The Manager, Personnel and Admn. Dept., Nuclear Fuel Complex, Hyderabad-762.
  5. One copy to Smt. Vinobha Devi, Advocate 3-4-845/2, Barkatpura, Hyd.
  6. One copy to Mr. N. Bhaskar Rao, Addl. CGSC.
  7. One spare copy.
  8. One copy to Deputy Registrar (J) CAT. Hyd.
  9. Copy to all Reporters as per Standard list of CAT. Hyd.
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COMPARED BY

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH.

THE HON'BLE MR.

AND

THE HON'BLE MR. R. BALASUBRAMANIAN : M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY :  
MEMBER (J)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (J)

Dated: 23-7-1992

ORDER / JUDGMENT

*Two drafts*

~~P.A./C.A./M.A. No.~~

~~in~~

O.A. No.

19/90

~~T.A. No.~~

~~(W.P. No.)~~

Admitted and interim directions  
issued

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default.

M.A. Ordered/Rejected.

No order as to costs.

*28/7/92*

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