

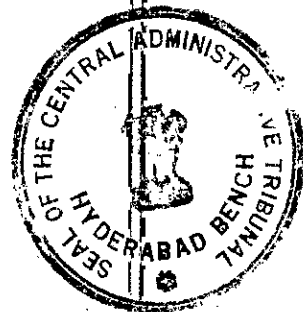
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 957/90.

Date of Judgment 9-7-92.

Between:  
S/Shri/Smt/Kum.

- |                           |                        |
|---------------------------|------------------------|
| 1. Y.Jaganmohan Reddy     | 26. B.V.Ramana Murthy  |
| 2. Jameela Begum          | 27. P.Raghu            |
| 3. Mohd. Najeebuddin      | 28. Ch.Chandra Reddy   |
| 4. L.Chandrakumar         | 29. K.Sudhakar Rao     |
| 5. M.Trivikrama Rao       | 30. T.Koteswara Rao    |
| 6. T.S.S.Ramandham        | 31. P.Rama Rao         |
| 7. Ch.N.V.Bhadram         | 32. B.Yadagiri         |
| 8. T.Sri Ram              | 33. E.Sree Lakshmi     |
| 9. A.Satyanarayana Murthy | 34. K.Krishna Kumari   |
| 10. L.Krishna Murthy      | 35. CV.Nataraj         |
| 11. M.Krishna Mohan       | 36. Pradeep Raj Saxena |
| 12. VSRK. Prasad          | 37. A.V.Prabhakar Rao  |
| 13. D.Joseph Hanry        | 38. B.Raju             |
| 14. B.Surya Prakash       | 39. B.Ravinder.        |
| 15. M.Mohan Rao           | 40. P.Ramachandra Rao  |
| 16. TN Shamraj            | 41. D.Raghuramam       |
| 17. CA.Vijaya Kumar       | 42. M.Vara Prasad      |
| 18. P.Vasundhara Devi     | 43. M.A.Lateef         |
| 19. GN Ravinder           | 44. G.Sudhakar         |
| 20. L.Venkata Ratnam      | 45. Laxmi Narayana     |
| 21. S.Bhaskar Rao         | 46. V.Satya Gopal.     |
| 22. G.Seetha              | 47. P.Kulasekhar       |
| 23. CLV Subba Rao         | 48. M.Padmini          |
| 24. K.Gnayaneshwar Rao    | 49. Ch.Raguel          |
| 25. C.Lakshmi             | 50. J.Vijaya Rani      |
|                           | 51. GVS Sastry.        |



... Applicants.

and

1. The Secretary,  
Ministry of Home Affairs,  
Govt. of India, New Delhi.
2. The Registrar General Census 2-A, Mansingh Road, New Delhi.
3. The Director, Census Operations, Somajiguda, Hyderabad.
4. The Secretary, Ministry of Finance, Govt. of India, New Delhi.

(4th respondent impleaded as per court order dt. 5-12-91).

... Respondents.

at Delhi and so there was no reason whatsoever to discriminate against the petitioner and the other Drivers-Constables merely because he and his like happened to be described as Constables belong to the Delhi Police Force. The Supreme Court in para 6 at page 494 observed as follows:-

"The counter affidavit does not explain how the case of the drivers in the police force is different from that of the drivers in other departments and what special factors weighed in fixing lower scale of pay for them. Apparently in view of the respondents, the circumstance that persons belong to different departments of the Government is itself a sufficient circumstance to justify different scales of pay irrespective of the identity of their powers, duties and responsibilities. We cannot accept this view. If this view is to be stretched to its logical conclusion, the scales of pay of officers of the same rank in the Government of India may vary from department to department notwithstanding their powers, duties and responsibilities are identical. We concede that equation of posts and equation of pay are matters primarily for the Executive Government and expert bodies like the Pay Commission and not for Courts but we must hasten to say that where all things are equal that is, where all relevant considerations are the same, persons holding identical posts may not be treated differentially in the matter of their pay merely because they belong to different departments.

Of course, if officers of the same rank perform dissimilar functions and the powers, duties and responsibilities of the posts held by them vary, such officers may not be heard to complain of dissimilar pay merely because the posts are of the same rank and the nomenclature is the same".  
(Emphasis is ours).

under the Railway administration is self-same in nature and there being absolutely no difference, the Data Entry Operators should be made entitled to a pay scale of Rs.1350-2200. According to the applicants, this report of the Seshagiri Commission was accepted by the Government of India as per the notification dated 11.9.1989. After acceptance of these recommendations, the Government of India fixed the pay scale of the Data Entry Operators at Rs.1350-2200 payable to the said Data Entry Operators (Applicants herein) with effect from 11.9.1989. The grievance of the applicants is that the pay scale also should have been fixed with effect from 1.1.1986 at the said scale of Rs.1350-2200 on which date the 4th Pay Commission report was made effective and the Electronic Data Processing Staff under the Railway administration were paid the same pay scale. So, the present OA is filed for the relief as already indicated above.

3. Counter is filed by the respondents opposing this OA.

4. The main contention advanced on behalf of the applicants is that on the principle of 'equal pay for equal work' that the applicants are also entitled to the same scale of pay with effect from 1.1.1986 on par with their counterparts who were working as Electronic Data Processing staff under the Railway administration. In this context, it will be worthy to note a decision of the Supreme Court of India reported in 1982(1) AIR LJ SC p.490, "Randhir Singh Vs. Union of India and others". The facts in the said case in brief are as follows:-

The petitioner before the Supreme Court in the said case was a Driver-Constable in the Delhi Police Force under the Delhi Administration. His grievance was that his scale of pay should at least be the same as the scale of pay of the other drivers in the services of the Delhi administration. The scale of pay of the Driver Constable in the Delhi Police Force was Rs.210-270 in the case of non-matriculates and Rs.225-308 in the case of Matriculates. The scale of pay of Drivers in the Railway Protection Force was Rs.260-400. The other drivers working in non-Secretariat Offices, Secretariat Offices and in the office of the Language Commission had higher scale of pay than that of the scale of pay of the petitioner as Driver Constable in the Delhi Police Force who was the petitioner (before the Supreme Court). The case of the said petitioner before the Supreme Court was that he discharged the same duties as the rest of the Drivers in the other offices

So, Nakara's case also reiterates the principle laid down in the said Randhir Singh's case. The fact that the applicants herein are discharging the same duties and responsibilities as that of the Electronic Data Processing staff under the Railway Administration is not at all in dispute. That being the position, we are unable to understand how the applicants can be deprived of the same pay scale which the said Electronic Data Processing staff working under the Railway Administration are enjoying with effect from 1.1.1986 in pursuance of the 4th Pay Commission report. So, it is quite evident that discrimination between the Electronic Data Processing staff working under the Railway Administration on one hand and the applicants before us on the other, is tainted with arbitrariness and that the disparity in their pay scale for the period from 1-1-1986 upto 10.9.1989 is not based on any rational classification. In other words, we are of the opinion that this is a case of irrational classification. The petitioners have thus made out a case of not only violation of Article 14 but also of articles 14 and 16(1) read with article 29(d) of the Constitution. The denial of parity lacks total justification. So, we are of the opinion that this is a fit case to allow the OA.

6. The learned counsel for the respondents drew our attention to a recent Judgment reported in ATR 1992(1) SC 589, "Union of India and others Vs. The Secretary, Madras Civil Audit and Accounts Association & others". We have gone through the said decision very carefully. The Hon'ble Supreme Court in the said case considered the scope of the 4th Pay Commission report recommending revised scales of pay the benefit under Office Memo dated 12.6.1977 issued by the Government of India, Ministry of Finance. The Supreme Court held that the revised scales of pay should not be extended to the members of the Accounts Wing of the Indian Audit and Accounts Department with effect from 1-1-1986, as in the case of the Audit Wing and it should be from 1.4.1987 as the functional grades in the Accounts Wing had to be identified and created. The facts of the said decision are completely different and the said case is not at all applicable to the facts of the present case. The learned counsel appearing for the respondents, Mr. N.V. Ramana, also relied on another decision reported in A IR 1992 SC 570,

At para 9 of the said Judgment, the Hon'ble Supreme Court observed-

"There cannot be slightest doubt that the drivers in the Delhi Police Force perform the same functions and duties as other drivers in service of the Delhi Administration and the Central Government."

After the said observations, the Supreme Court ended the said judgment with the following operative portion:

"We, therefore, allow the writ petition and direct the respondents to fix the scale of pay of the petitioner and the drivers-constables of the Delhi Police Force at least on a par with that of the drivers of the Railway Protection Force. The scale of pay shall be effective from 1st January, 1973, the date from which the recommendations of the Pay Commission were given effect."

As could be seen from the Judgment, the benefit to the petitioner before the Supreme Court was given with effect from 1.1.1973, the date from which the recommendations of the pay Commission were given effect, after directing the respondents therein to fix the pay scale of the petitioner therein who is the Driver-Constable of the Delhi Police Force on par with the said Drivers of the Railway Protection Force. According to us, the case on hand appears to be similar in all respects and the said decision on all fours if applicable to the facts of this case.

5. In D.S.Nakara and others vs. Union of India, "AIR 1983 SC 130", it is laid down as follows:-

"Where all relevant considerations are the same, persons holding identical posts may not be treated differently in the matter of their pay merely because they belong to different departments."

But the payment of special pay of Rs. 20/- to the said Electronic Data Processing staff was purely the decision of the Railways and that would not establish that the nature of duties performed by such persons ~~xxxx~~ in the Railways as of ~~an~~ higher order than those of persons like the applicants. Admittedly, the special pay was abolished with effect from 1.1.1986 after revision of the pay scales and the Government had later extended the same scale of pay with effect from 11.9.1989 to the applicants herein, as is being enjoyed by the Electronic Data Processing staff working in the Railways. But the only dispute as already indicated is the date from which the benefit of pay scale has to be accrued to the applicants. The extra payment of Rs.20/- per month as a special pay to the said Electronic Data Processing staff working in the Railways prior to revision of pay scales under no circumstances would justify a later date for giving the said benefit to the applicants as the applicants admittedly were also on the same pay scale prior to 1.1.1986 on par with the Electronic Data Processing staff working in the Railways. In view of the decision reported in AIR 1983 SC 130 (D.S. Natar's case) and to which a reference is already made, the contention of the learned counsel for the respondents that the applicants are not entitled to the same pay scale as that of their counterparts with effect from 1.1.1986 cannot be accepted. In this context, it will be worthy to note also a decision of the Punjab and Haryana High Court reported in 1988(7) SLR p.109 (Naranjan Das, Packer and others Vs. The State of Haryana and others), wherein it is laid down as follows:-

"From the perusal of a communication from the Controller, Printing and Stationary, Haryana (copy Annexure p.2-dated 6.4.1981) to the Secretary-cum-Commissioner, Govt. of Haryana, Printing and Stationary Department, it is seen that the Controller has categorically stated that the duties and responsibilities of packers of Printing and Stationery Department are more as compared to the duties and responsibilities to the Packers in the Public Relation Department. The petitioners had

"Union of India and others Vs. Tejram Parashramji Bombhate and others etc." wherein it is laid down that S.14 of the Administrative Tribunals Act, 1985 confers no jurisdiction, power and authority on the Tribunal to deal with the service matters of the employees like the teachers of the Secondary School, and that the teachers of Secondary school cannot claim the pay scale admissible to the Government school teachers much less regularisation of their services by the Central Government. On the basis of the said decision, it is contended that the applicants cannot claim the same pay scale with effect from 1.1.1986 onwards on par with their counterparts in the Railway administration. After being satisfied that the applicants herein are discharging the same duties and the responsibilities as those of their counterparts (EDP) staff under the Railway administration), we are of the opinion that the pay scale that is applicable to the Electronic Data Processing (EDP) staff under the Railway Administration is also to be made applicable to the applicants herein with effect from 1.1.1986. Their lordships in the said decision were not dealing with the question of the case of 'equal pay for equal work'. Hence, the said decision also is not applicable to the present case on hand.

7. The learned counsel appearing for the respondents maintained that a special pay of Rs. 20/- was being paid to the EDP staff working under the Railway administration besides the pay scale of Rs.330-560 and so, in view of the fact that the special pay of Rs.20/- was being paid to the said EDP staff and as the applicants were not paid the said special pay of Rs.20/- that the applicants cannot claim the pay scale on par with the EDP staff working under the Railway administration with effect from 1.1.1986. We are not concerned here about the special pay of Rs.20/- paid to the EDP staff in the Railways. The only question with which we are concerned is whether the applicants too are entitled to the pay scale of Rs.1350-2200 with retrospective effect from 1.1.1986 as the applicants are also discharging the same duties and the responsibilities as those of the EDP staff in the Railways. ~~That is the only question with~~ Of course, special pay of Rs.20/- per month was being paid to the Electronic Data Processing staff working in the Railways prior to revision of pay scale with effect from 1.1.1986.

from their counterparts in the Railways who are discharging the same duties and responsibilities as already indicated. So, it will be just and proper to allow to the applicants the same pay scale as their counterparts in the Railway administration with effect from 1.1.1986 itself.

8. In the result, the respondents are hereby directed to give the same scale of pay of Rs.1350-2200 from 1.1.1986 to the applicants also on par with the Electronic Data Processing staff working under the Railway administration and pay the difference of arrears of pay for the period from 1.1.1986 to 10.9.1989 in accordance with the rules and regulations. The respondents are further directed to pay the said arrears within three months from the date of receipt of a copy of this Judgment. With these directions, the application is allowed. In the circumstances of the case, we direct the parties to bear with own costs.

CERTIFIED TO BE TRUE COPY

Date. . . . . 21/7/92

Court Officer  
Central Administrative Tribunal  
Hyderabad Bench  
Hyderabad.

- To
- 1 The Secretary, Ministry of Home Affairs,  
Govt. of India, New Delhi.
  2. The Registrar, General Census,  
2-A, Mansingh Road, New Delhi.
  3. The Director, Census Operations, Somajiguda, Hyderabad.
  4. The Secretary, Ministry of Finance, Govt. of India, New Delhi.
  5. One copy to Mr. J. Suchir, Advocate, 3-5-703, Opp; Old M.L.A. Qrs  
Himayatnagar, Hyderabad.
  6. One copy to Mr. N.V. Ramana, Addl. CGSC CAT. Hyd.
  7. One copy to Deputy Registrar (J) CAT. Hyd.
  8. Copy to All Reporters as per standard list of CAT. Hyd.
  9. One spare copy.

pvm.

Case Num. P.A. 957/90.

Date of Judgment. 17/7/92

Copy made by. 22/7/92

Section Officer (J)



been getting the same pay-scale upto April 1969 as admissible to their counterparts in Public Relations Department. The plea of the State that the Packers of the Printing and Stationery Department are non-Matriculates is of no avail. Similar position also existed in the year 1969. The qualification for the post of Packer in both the departments remain the same. The petitioners cannot be discriminated on this ground, whereas in the past they were being treated at par with the Packers of the Public Relation Department. The petitioners are also entitled to the same grade which was given to the Packers of the Public Relation Department with effect from February 1, 1981. I am of the considered view that the stand taken by the respondents is wholly without any merit. Once the State Government was satisfied that the Packers of the Printing and Stationery Department are discharging the same and similar duties as compared to their counterparts in the Public Relation Department, the petitioners were entitled to be granted the same pay scale which their counterparts in Public Relations Department were getting. I see no justification for not granting the same pay scale to the petitioners-Packers of the Printing and Stationery Department from the same date from which their counterparts in the Public Relations Department were given the revised pay scale."

So, in view of the said decision, we are of the view that there is no justification for not granting the same pay scale to the applicants herein from the same date their counterparts in the Railway administration were given. So, considering all the facts and circumstances of the case. We are unable to accept the contention advanced on behalf of the respondents, on the ground that the applicants herein cannot be treated differently