

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

Case No. 1025/01

DT. 18.01.2002 - 00.00

1. V. Pullaiah
2. V. Sudhakara Rao
3. S. Uma Maheswara Rao
4. C.B. Devy
5. T. Malyadri

.. Applicants.

VS

1. Union of India represented by
The Secretary to Government,
Ministry of Defence,
New Delhi.
2. The Chief of the Naval Staff,
NHQ, New Delhi.
3. Flag Officer, Command-in-Chief,
Eastern Naval Command,
Visakhapatnam.
4. Admiral Superintendent,
Naval Dockyard,
Visakhapatnam.

.. Respondents.

Counsel for the Applicants : Mr. K.S.R. Anjaneyulu

Counsel for the Respondents : Mr. N.R. Devaraj, Sr. CGSC.

CORAM:

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER (JUDL.)

THE HON'BLE SHRI A.B. GORTHI : MEMBER (ADMN.)

O.A.No.1025/91

ORDER

(As per the Hon'ble Sri A.B. Gorthi, Member (A))

The applicants herein who are working as Senior Scientific Assistants (SSAs for short) in the Naval Dockyard, Visakhapatnam claim parity of pay with the SSOs in the Defence Research and Development Organisation.

2. Prior to 3rd Pay Commission the pay scale of Senior Foreman and Sr. Scientific Assistant in the Ministry of Defence (MOD for short) was the same at Rs.325-575. With the implementation of the 3rd Pay Commission recommendations the Sr. Foremen were given the scale of pay of Rs.840-1040 while the scale of pay of SSAs was fixed at Rs.550-900. The SSAs raised the issue of the difference of pay between SSAs and the Foreman in the MOD. Though the MOD referred the question of pay scale of all the SSAs ^{working} in the MOD to the Arbitration Committee, the Committee gave its verdict on 12-8-85 effecting parity of pay between the Foremen and the SSAs, but limited the benefit only to the SSAs of the DRDO and DGI in the MOD. Thus the benefit of the award of Arbitration Committee ^{ensure} did not ~~in~~ ^{ensure} to the applicants working in the Naval Dockyard.

3. With the implementation of the 4th Pay Commission Report the pay of the SSAs in DRDO and DGI was raised to Rs.2375-3500 whereas the applicants were given the scale of pay of Rs.1640-2900 only. The applicants made a representation on 2-4-90 claiming parity of pay with

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the other SSAs serving in DRDO and DGI under the MOD. The representation was rejected by the Naval Headquarters vide their Letter dt. 12-11-90. In that, it was stated that in the case regarding the representation of the pay scales of SSAs in the Navy to the Board of Arbitration, MOD included the SSAs of lower formations also. As the Board of Arbitration gave its award in favour of only those SSAs working in DRDO and DGI (now DGQA) the question of giving the benefit to the applicants did not arise.

4. The aforesated facts are not in dispute.

Sri K.S.R. Anjaneyulu, learned counsel for the applicants has stated that SSAs in the Navy perform exactly the same type of work as performed under the MOD such as DRDO and DGQA. He further contended that as the pay scale of the applicants as also the SSAs in the other organisations in the MOD remained same at the level of Rs.325-575 upto the time of implementation of the 3rd Pay Commission, ^{2 but it} ~~it~~ ^{some error is} was on account of the same point that in the revision of the pay scale of the SSAs the applicants were left out.

5. The respondents have filed a counter in which

it is stated that the nature of duties performed by the applicants cannot be said to be the same or similar to that performed by the SSAs in the DRDO and DGQA.

Sri N.R. Devaraj, learned counsel for the respondents has also drawn our attention to the educational qualifications prescribed for entry into the cadre of SSA both in the Navy and in the DRDO. For entry into DRDO as SSA, a candidate must possess Master's Degree in Science with 2 years experience, or a Degree in Engineer-

ing with 2 years experience, or a Diploma in Engineering with 4 years experience, or a Degree in Science with 4 years experience. In the case of SSA in the Navy the minimum educational qualification prescribed is Master's Degree in Science, or Degree in Engineering, or B.Sc. (Hon.) with 1 year experience, or Diploma in Engineering with 3 years experience, or second class B.Sc. with 3 years experience. The respondents' counsel therefore contended that the educational qualifications prescribed in the relevant recruitment rules for the SSAs in DRDO and the Navy are not identical.

6. Sri Anjaneyulu has drawn our attention to Randhir Singh V/s UOI & Ors 1982(1) SLJ 490. In this case their Lordships had the occasion to observe as to how the principle of equal pay for equal work is no longer an abstract doctrine and how it is a vital and vigorous doctrine accepted throughout the world, particularly the socialist countries. In particular the applicants' counsel has drawn our attention to the following passage from the judgement:

" 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."

He has also drawn our attention to Y.K. Mehta V/s UOI & Anr. 1988 Supp. SCC 750. That was the case where two different posts under the two different wings of the

Ministry were not only identical but also involved the performance of the same nature of duties. It was therefore held that it would be unreasonable and unjust to discriminate between the two in the matter of pay, in view of the directive principles of state policy as embodied in Clause-D of Art.39 of the Constitution.

7. Having heard learned counsel for both parties, and having perused the material, we find that the educational qualifications prescribed for the posts of SSAs in DRDO and Indian Navy are not exactly identical. This would be evident from what we have already stated as regards the minimum educational qualifications prescribed for the two posts.

8. As regards the nature of duties performed by the SSAs in the Indian Navy, the contention of the applicants is that they perform similar duties as those performed by the SSAs in DRDO and DGQA of the MOD. This contention of the applicants has not been accepted as such by the respondents who have merely stated that the SSAs perform the duties keeping in view the peculiar requirements of the Naval Dockyard of the Indian Navy. In State of U.P. Vs J.P. Chaurasia 1989 (5) SLR 788 the Hon'ble Supreme Court observed as under:

"The quantity of the work may be the same but the quality may be different, and that cannot be determined by relying upon averments in affidavits of interested parties. The equation of posts or equation of pay must be left to the Executive Government. They would be the best judge to evolve the nature of duties and responsibilities of posts."

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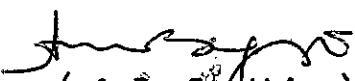
1. The Secretary to Government, Ministry of Defence, Union of India, New Delhi.
2. The Chief of the Naval Staff, NHQ, New Delhi.
3. Flag Officer, Commanding-in-Chief, Eastern Naval Command, Visakhapatnam.
4. Admiral Superintendent, Naval Dockyard, Visakhapatnam.
5. One copy to Sri. K.S.R.Anjaneyulu, advocate, CAT, Hyd.
6. One copy to Sri. M. R.Devaraj, Sr. CGSC, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One spare copy.

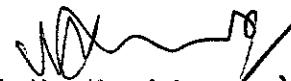
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9. From the material placed before us we are unable to come to the conclusion as to the nature of duties performed by the SSAs and the Indian Navy, vis-a-vis nature of duties performed by the SSAs in other organisation in the MOD such as DRDO and DGQA. We however find from the Naval Headquarters letter dt. 12-11-1990 by which representation of the petitioners was rejected, that the question of revision of the pay scales of SSAs serving in the lower formations also, such as the Naval Dockyard, was projected to the Board of Arbitration. It was also stated in the said letter that the matter was once again taken up by the Naval Headquarters with the Government of India for consideration. It thus appears that the case of the applicants was adequately taken up by the Naval Headquarters with the Govt. of India but that it was turned down.

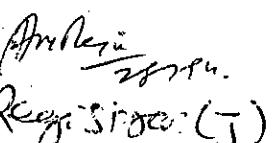
10. The 5th Pay Commission has now been set up. In view of this development, it would be more appropriate if we do not pass any orders in this OA but leave it to the respondents to once again examine the case of the applicants and project the case to the higher authorities so that the grievance of the applicants with regard to the effecting the parity of their pay with the SSAs in the other organisations of the MOD is duly considered. The OA is ordered accordingly with no order as to costs.


(A.B. Gonathi)
Member (A)


(A.V. Haridasan)
Member (J)

Dated 22-7-1994
Open Court Dictation

kmv


D.Y. Regisiger (J)

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O.A-1025/91

Typed by

Compared by

Checked by

Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR.A.V.HARIKANTH: MEMBER(J)

AND

THE HON'BLE MR.A.B.GORTHI : MEMBER(A)

Dated: 22/7/94

ORDER/JUDGMENT:

M.R.P./C.P.NO.

C.A.NO.

in
1025/91

I.A.NO.

(W.P.NO.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as Withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

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