

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIFUR BENCH,

JAIPUR

OA No.41/1996

Date of order: 9-12-1997

1. D.P.Rangwani, Superintendent in the office of Geological Survey of India, Jaipur
2. R.C.Nankani, Superintendent in the office of Geological Survey of India, Jaipur.

.. Applicants

Versus

1. The Union of India through the Secretary to the Govt. of India, Ministry of Mines, Department of Mines, Shastri Bhawan, New Delhi.
2. The Director General, Geological Survey of India, Central Headquarters, 27-J.L.Nehru road, Calcutta.
3. The Deputy Director General, Geological Survey of India, Western Region, 15-16 Jhalana Dungari, Jaipur.

.. Respondents

Mr. P.V.Calla, counsel for the applicants

Mr. V.S.Gurjar, counsel for the respondents

CORAM:

Hon'ble Mr. O.P.Sharma, Administrative Member

Hon'ble Mr. Ratan Prakash, Judicial Member

ORDER

Per Hon'ble Mr. O.P.Sharma, Administrative Member

In this application under Section 19 of the Administrative Tribunals Act, 1985 S/Shri D.P.Rangawani and R.C. Nankani have prayed on their own behalf and on behalf of certain other Assistants working in the Geological Survey of India (GSI), Western Region, Jaipur as mentioned in Schedule-A to the OA that the respondents may be directed to grant scale of pay of Rs. 1640-2900 to them w.e.f. 1.1.1986 on a notional basis and to grant them the actual financial benefits from the date of filing of the present OA which is

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18.1.1996.

2. The case of the applicants is that they have been working as Assistants in the above mentioned office w.e.f. 1.1.1986 (Some of the persons mentioned in Schedule-A to the OA have since been promoted as Superintendents). Prior to 1.1.1986 the scale of pay of Assistants in the GSI was Rs. 425-640 and on the recommendations of the Fourth Central Pay Commission it was revised to Rs. 1400-2300 w.e.f. 1.1.1986. The Assistants working in the Central Secretariat and other Central Departments discharged exactly the same duties but different scales of pay have been prescribed for them as seen from Schedule-B of the OA, although their employer is common namely Government of India. Assistants in the Central Secretariat filed an OA before the Principal Bench of the Tribunal seeking scale of pay of Rs. 1640-2900, against the scale of Rs. 1400-2600 provided to them. The Tribunal directed respondent No.1, Union of India to refer the matter to the Anomalies Committee. Assistants in the Central Secretariat were thereafter granted scale of pay of Rs. 1640-2900. Thereafter Assistants who were in scale of pay of Rs. 425-800 before 1.1.1986 were also granted scale of pay of Rs. 1640-2900 but Assistants who were in scale of pay of Rs. 425-640 or Rs. 425-700 were not granted the aforesaid scale of pay of Rs. 1640-2900. The grievance of the Assistants in the GSI, who were granted scale of pay Rs. 1400-2300, was raised through the Joint Consultative Machinery (JCM) but their grievance was not redressed. The applicants thereafter submitted a representation dated 6.6.1995 (Ann.A1) setting out their grievance in detail.

3. The applicants have relied upon an order of this Bench of the Tribunal passed on 9.8.1994 in OA No.152/1991 pp. 21-26 of the OA, by which Assistants working in the office of the

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Salt Commissioner were granted the same scale of pay by the Tribunal as had been granted to Assistant in the Central Secretariat viz. Rs. 1640-2900. The applicants have also placed on record Ann.A5 being a copy of an order dated 18.4.1994 which shows that Assistants working in the Indian Council for Mechanical Research were also granted scale of pay of Rs. 1640-2900.

4. Further as stated by the applicants, 25% posts of Assistants in the GSI were filled up by direct recruitment in early 1980s. The mode of recruitment of the Assistants in the GSI and those in the Central Secretariat was similar and they also performed the same or similar duties as performed by the Assistants in the Central Secretariat. The Fifth Central Pay Commission is likely to submit its recommendations shortly and if the applicants are not granted scale of pay of Rs. 1640-2900, they will suffer a loss when recommendations of the Fifth Central Pay Commission are implemented. They have, therefore, prayed that they should be granted the same scale of pay namely Rs. 1640-2900 as has been granted to the Assistants in the Central Secretariat.

5. The respondents have taken a preliminary objection to the maintainability of the OA on the ground that the applicants have claimed grant of scale Rs. 1640-2900 w.e.f. 1.1.1986, by filling an OA in January, 1996, i.e. nearly after a decade. Thus the application is barred by limitation. Also, relief has been claimed in this OA by relying upon some other judgments of the Tribunal. According to the respondents, judgments do not furnish a cause of action in favour of the applicants.

6. In their detailed reply to the OA, the respondents have denied that any representation dated 6.6.1995 was submitted to the respondents. Further according to them, the Assistants

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working in the Ministries (i.e. Central Secretariat) are classified as Group 'B' (non-gazetted) while Assistants in the GSI have been classified as Group 'C' employees. Therefore, the position of the two categories is not comparable. The Assistants who were earlier working in pay scale of Rs. 425-750 and Rs. 425-800 were granted pay scale of Rs. 1400-2600 as a result of the recommendations of the Fourth Central Pay Commission w.e.f. 1.1.1986. Subsequently the scale of Rs. 1400-2600 was further revised to Rs. 1640-2900 by an order dated 31.7.1990 passed by the Department of Personnel and Training, in view of the order dated 23.5.1989 passed by the Principal Bench of the Tribunal in OA No. 1586/1987. The judgments relied upon by the applicants do not in fact advance their cause. ^{Posts of} Assistants working in the GSI are filled up 100% by promotion from the grade of UDC, while in the Central Secretariat 50% of posts of Assistants are filled up by promotion, 25% by Departmental Examination and 25% by direct recruitment through the Staff Selection Commission. The pay scale of Assistants in the GSI was never placed at par with the scale of pay of the Assistants in the Central Secretariat Service. The controversy raised by the applicants is within the domain of an expert body like the Pay Commission. They have, therefore, prayed that the prayer of the applicants for grant of pay scale of Rs. 1640-2900 be rejected.

7. The respondents have also filed an additional reply. In this reply the respondents have stated that the subject matter of the OA has been considered by the GSI in consultation with the Ministry of Finance (Implementation Cell), Department of Expenditure. Perhaps what they mean to say is that after such consideration, the claim of the applicants has not been found tenable although it has not

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been explicitly stated by the respondents. They have added that the pay scale of the Assistants was revised under the Department of Personnel and Training OM dated 31.7.1990 to remove the anomaly in accordance with the prescribed procedure, consequent upon the directions of the Principal Bench of the Tribunal.

8. The learned counsel for the applicants relied during his oral arguments on an order of the Principal Bench of the Tribunal in OA Nos. 144-A/1993, 985/1993 and 548/1994 delivered on 19th January, 1996, filed by Shri V.P.Panchal and certain others. In these OAs, the Crime Assistants of the CBI, Stenographers of certain categories and certain other officials of other categories had prayed for grant of scale of pay Rs. 1640-2900. The aforesaid scale of pay has been granted by the Tribunal by its order dated 19th January, 1996 passed in the aforesaid OAs. The learned counsel for the applicants has relied upon the observations made in the aforesaid order of the Principal Bench of the Tribunal to advance their cause. In particular, the learned counsel for the applicants has drawn attention to the observations in the judgments of the Hon'ble Supreme Court quoted therein regarding grant of equal pay for equal work and has urged that in view of the observations in this order, the considerations such as different modes of recruitment are not material considerations for denying equal pay for equal work. He also drew particular attention to the order passed by this Bench of the Tribunal on 9.9.1994 (Ann.A3) whereby scale of pay of Rs. 1640-2900 was granted to the Assistants working in the office of the Salt Commissioner. He, therefore, prayed that scale of pay of Rs. 1640-2900 should be granted to the applicants who are working as Assistants in the GSI, because the nature of duties and responsibilities of these Assistants

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and those in the Central Secretariat is identical and there are no factors to justify any distinction being drawn between the applicants on the one hand and those Assistants on the other hand who have been granted scale of pay Rs. 1640-2900 either by the Government of India or as a result of implementation of an order of the Tribunal.

9. The learned counsel for the respondents stated in his oral arguments that the mode of recruitment of Assistants in the GSI and those in the Central Secretariat is different. According to him, the mode of recruitment is also a material consideration for deciding whether the same scale of pay should be granted to them. Further, according to him, recommendation of the Fourth Pay Commission with regard to the Assistants in the Central Secretariat was that they should be granted pay scale of Rs. 1400-2600 whereas with regard to Assistants in the GSI, the recommendation of the Fourth Central Pay Commission was that they should be granted pay scale of Rs. 1400-2300. Therefore, these two categories of Assistants were not treated as equal in all respects even by the Fourth Central Pay Commission. It has been held, according to him, in a catena of judgments of the Hon'ble Supreme Court that it is the function of an expert body like the Pay Commission to prescribe pay scales for different posts and the Courts or the Tribunals should not ordinarily interfere in such matters. According to him, there are no circumstances justifying any interference by the Tribunal in this case. Further, according to him, the orders of the Tribunal relied upon on behalf of the applicants are distinguishable on facts. He, therefore, prayed that the application should be dismissed.

10. We have heard the learned counsel for the parties and have perused the material on record including the judgments

cited before us.

11. As regards the preliminary objection of the respondents that the OA is not maintainable because higher pay scale is being demanded from a date as far back as 1.1.1986, we are not inclined to attach much importance to this objection. The applicants have prayed for grant of actual benefit of higher scale of pay from the date of filing of the application, and for the earlier period they have sought only notional benefits of higher scale of pay. If it is assumed for a moment that the benefits with regard to a hoary post cannot be granted to the applicants, the Tribunal can certainly consider granting them benefits from the date of filing of the application, because as held by the Hon'ble Supreme Court in the case of M.R.Gupta Vs. Union of India and Ors., 1995 (2) ATJ 567, right to be paid correct salary subsists during the entire service and can be exercised at the time of payment of salary every month. It is only with regard to the claim for arrears that the question of limitation may arise.
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We have, therefore, proceeded to deal with this OA on merits.

12. The factual position that emerges is that Assistants in the GSI were in scale Rs. 415-640 prior to 1.1.1986. The Fourth Central Pay Commission had recommended grant of pay scale of Rs. 1400-2300 to them and it was in this scale that they were eventually placed. The Assistant in the Central Secretariat Service were in scale of pay of Rs. 425-800 prior to 1.1.1986 and in their case the scale of pay of Rs. 1400-2600 was recommended by the Fourth Central Pay Commission. Thus before 1.1.1986, the Assistants in the GSI had been placed in a different, lower scale of pay than Assistants in the Central Secretariat. The recommendations of the Fourth Central Pay Commission were also not that the scale of pay of Assistants in the two organisations should be made equal. The

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Fourth Central Pay Commission had considered this matter in detail and had recommended that Assistants and certain other categories of staff in scale of pay Rs. 425-800 and Rs. 425-750 should be placed in the scale Rs. 1400-2600. There was no similar recommendation with regard to Assistants in scale Rs. 425-640. Thus an expert body like the Pay Commission had considered the matter and it came to the conclusion that those Assistants who were in the pay scale Rs. 425-800/425-750 should be granted pay scale of Rs. 1400-2600. It is significant to note that with regard to Crime Assistants in the CBI also the Fourth Central Pay Commission had recommended the pay scale of Rs. 1400-2600. The Government subsequently either on its own or on account of the directions of the Tribunal had revised the pay scale of Rs. 1400-2600 to Rs. 1640-2900. Thus the higher pay scale of Rs. 1640-2900 was granted to those Assistants for whom uniformly the scale of pay Rs. 1400-2600 had been initially recommended by the Fourth Central Pay Commission. What we mean to suggest by the above observation is that the Fourth Central Pay Commission, an expert body in the matter of determining scales of pay etc. had treated certain categories of Assistants as equal and had recommended a uniform scale of pay of Rs. 1400-2600 for them. It was only in respect of such categories that a still higher pay scale of pay Rs. 1640-2900 has been subsequently granted either by the Government or on the recommendation of the Tribunal. The applicants were in a lower scale of pay before 1.1.1986 and they had been placed in a lower scale of pay after 1.1.1986, on the recommendations of the Fourth Central Pay Commission.

13. Insofar as the judgment in the case of V.R.Panchal and Ors. delivered by the Principal Bench is concerned, it is mentioned therein that the Crime Assistants of CBI had also

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been recommended to be granted scale of pay of Rs. 1400-2600 by the Fourth Central Pay Commission and taking note of this fact also, the Tribunal had directed that they should be granted the higher scale of pay of Rs. 1640-2900.

14. Insofar as the Assistants in the office of the Salt Commissioner are concerned, once again it is to be noted that before 1.1.1996 they were in the pay scale of Rs. 425-800 and on recommendations of the Fourth Central Pay Commission they were placed in the scale of Rs. 1400-2600. This was also a significant aspect taken into account by the Tribunal in its order dated 9.8.1994 (Ann.A3) by which a direction was issued to grant pay scale of Rs. 1640-2900 to the Assistants in the office of the Salt Commissioner. There were other considerations as well but this was an important consideration which was taken into account by the Tribunal while directing grant of same scale of pay to the Assistants in the office of the Salt Commissioner as available to Assistants in the Central Secretariat.

15. We have carefully gone through the order dated 19th January, 1996 passed by the Tribunal in the case of V.R.Panchal and others. In this order the Principal Bench of the Tribunal has considered various judgments of the Hon'ble Supreme Court and has also taken into account the observations of the Fourth Central Pay Commission with regard to equation of pay scales between the Assistants and others in various Departments. After considering the matter in its entirety, the Tribunal has come to the conclusion that scale of pay of Rs. 1640-2900 would be available to the Crime Assistants in the CBI. Our view is that an important consideration which weighed with the Principal Bench of the Tribunal in directing grant of scale of pay Rs.1640-2900 to Assistants in the Crime Branch of the CBI was that the ^{scale} Fourth Central Pay Commission had recommended the same pay/

to them as recommended for Assistants in the Central Secretariat. This judgment, therefore, in our view would not be of help to the applicants.

16. Although the applicants have averred that they are performing the same duties and functions as Assistants in the Central Secretariat, yet they have not placed on record any material to show what are the precise duties and functions performed by them in the GSI and whether these are the same as performed by the Assistants in the Central Secretariat.

17. In State of Madhya Pradesh and another Vs. Pramod Bhartiya and Ors., 1993 (2) SLJ 91, the Hon'ble Supreme Court accepted that the matter regarding grant of equal pay for equal work falls within the ambit of Article 14 of the Constitution. Quoting the judgment in the case of Randheer Singh Vs. Union of India and Ors., 1981 (1) SCC 618, the Hon'ble Supreme Court held that the doctrine of equal pay for equal work may be properly applied to cases of unequal scales of pay based on no classification or irrational classification though those drawing different scales of pay may be doing identical work under the same employer. In the same judgment of Pramod Bhartiya, the Hon'ble Supreme Court further held that the principle of equal pay for equal work have, however, no mechanical application in every case of similar work and Article 14 permits reasonable classification founded on different bases. In the instant case, we cannot hold that the classification made by the respondents is in any way irrational, when the matter was adjudicated upon by an expert body like the Fourth Central Pay Commission and it chose not to grant same scale of pay to the Assistants in GSI as granted to the Assistants in the Central Secretariat. In State of U.P. Vs. J.P. Chaurasia, AIR 1989 SC 19, the Hon'ble Supreme Court held that whether two

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posts are equal or should carry equal pay depends on several factors and bodies like Pay Commission would be best judges to evaluate the nature of duties, responsibilities and all other relevant factors for deciding the issue. In Mewa Ram Kanojia Vs. All India Institute of Medical Sciences and Ors. (1989) 1 SCC 235, the Hon'ble Supreme Court considered various judgments delivered by it on the subject earlier and held that the doctrine of equal pay for equal work is not an abstract one and it is open to the State to prescribe different scales of pay for different posts having regard to various considerations such as educational qualification, duties and responsibilities attaching to the posts. The Hon'ble Supreme Court held that if the classification has reasonable nexus with the object sought to be achieved, efficiency in the administration, the State would be justified in prescribing different pay scales but if the classification does not stand the test of reasonable nexus and the classification is founded on unreal and unreasonable basis, it would be violative of Articles 14 and 16 of the Constitution.

18. The legal position is thus well settled that while the State is competent to provide for different scales of pay for different posts, the classification must be based on rational considerations and should have a reasonable nexus with the object sought to be achieved. More importantly, matters of this nature are best left to the expert bodies like Pay Commission. In the light of the general guiding principles emerging from the judgments of the Hon'ble Supreme Court, it would be ordinarily for an expert body like the Pay Commission to determine what pay scales should be granted for various posts in different Departments. In the instant case the Pay Commission chose to recommend grant of higher pay scale of Rs. 1400-2600 to certain categories

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of Assistants but recommended a lower scale of pay for Assistants in the GSI. Before 1.1.1986 also, Assistants in the Central Secretariat enjoyed a higher scale of pay than Assistants in the GSI and it was on the basis of the higher pay scale recommended/granted by the Fourth Central Pay Commission to the Assistants in the Central Secretariat that a still higher scale of pay Rs. 1640-2900 was granted to them. The applicants have not been able to show how grant of lower pay scale to them as a result of the recommendations of the Fourth Central Pay Commission is arbitrary or is without any nexus with the object sought to be achieved. As already stated above, the applicants have not placed any material on record to show that duties and responsibilities of the Assistants in the GSI are identical with those in the Central Secretariat. Mere designation of a post would not justify grant of equal pay to holders of the posts of Assistants in different Departments of the Government of India.

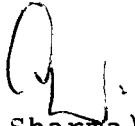
19. On a careful consideration of all the facts and circumstances of the case and the legal position, we find no merit in the claim of the applicants for grant of scale of pay of Rs. 1640-2900 to the Assistants in the GSI.

20. The OA is dismissed. No order as to costs,



(Ratan Prakash)

Judicial Member



(O.P. Sharma)

Administrative Member