

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR**

Original Application No. 732 of 2004

Indore, this the 17th day of August, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

P.N. Khare & 9 others Applicants

(By Advocate – None)

V e r s u s

Union of India and 2 others Respondents

(By Advocate – Shri P. Shankaran)

O R D E R

By Madan Mohan, Judicial Member -

By filing this Original Application the applicants have claimed the following main reliefs :

“8.1 to hold that the respondents have moved against the principles of equality by granting lower pay scale to the applicants,

8.2 to quash the order dated 19.5.2004 (Annexure A-7),

8.3 to direct the respondents to grant pay scale of Rs. 5000-8000 to applicants No. 1, 2, 3, 5, 6, 8 and 9 and of Rs. 4500-7000 to applicants No. 4, 7 and 10 and to grant all consequential benefits to the applicants since 1.1.1996,

8.4 to direct the respondents to pay arrears of pay to the applicants after fixing the pay in respective pay scale.”

2. The brief facts of the case are that the applicants are working as Data Entry Operator and Senior Data Entry Operators respectfully in the Vehicle Factory, Jabalpur. Prior to IVth Central Pay Commission (in short CPC) they were enjoying pay scale of Rs. 330-560. The IVth CPC recommended while revising the pay scales, pay scale of Rs. 1350-2200/-

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to the employees discharging the work of electronic data processing in the Railway administration, whereas the pay scale of Rs. 1200-2040 to the electronic data processing staff in other ministries/departments including that to the applicants w.e.f. 1.1.1986 though the pre-revised pay scale was the same i.e. 330-560/- . Being aggrieved by such an in-consistent and discriminatory approach of the IVth CPC, the Data Entry Operators in various ministries raised grievances to the Government of India. The Government of India appointed Sheshagri commission and the commission had recommended that the nature of duties and responsibilities attached to both the grades of data entry operator in other organization and electronic data processing staff working under the Railway administration are same in nature, there being absolutely no differences and discrimination in pay scale is unreasonable, thus the data entry operators are entitled to the pay scale of Rs. 1350-2200/- . This report was accepted by the Government of India with effect from 11.9.1989 (Annexure A-1). Some of the Data Entry Operators of the Director of Census operations, Hyderabad filed an OA No. 957/1990 before the Hyderabad Bench of the Tribunal and it was decided vide order dated 9th July, 1992. This OA was allowed with the finding that there is no justification for not granting same pay scale to the applicants with effect from 1.1.1986. The applicants had also filed an OA before this Tribunal bearing No. 115/95 and relying upon the aforesaid judgment of the Hyderabad Bench of the Tribunal, this Tribunal also allowed the aforesaid OA vide order dated 28.9.1999. In compliance there to the respondents granted the pay scale of Rs. 1350-2200/- to the data entry operators working under Controller of Accounts (Factories), Jabalpur with effect from 1.1.1986. The applicants have been again discriminated after announcement of Vth CPC. They submitted representation Annexure A-5. The respondents neither decided the representation of the applicant nor are reestablishing the parity. Hence, the applicants filed another OA No. 484/2003 and by order dated 9.9.2003 the Tribunal directed the respondents to decide the representation Annexure A-5. The respondents

have decided the representation vide order dated 19.5.2005 (Annexure A-7) and have overlooked the vital aspect of the matter and they have rejected the claim of the applicant on untenable grounds. Hence, this Original Application is filed.

3. None is present for the applicant. Since it is a case of 2004, we proceed to dispose of this Original Application by invoking the provisions of Rule 15 of CAT (Procedure) Rules, 1987. Heard the learned counsel for the respondents.

4. The learned counsel for the respondents argued that the applicants are given the correct scale of pay corresponding to the pay scales which they were holding prior to 1.1.1996. They had no grievances so far as to placing them in lower scale of pay as alleged now. They have also not raised this plea in OA No. 115/1995 which was decided on 28.9.1999 i.e. much after the implementation of the recommendations of the Vth CPC. The applicants have been properly placed in their present scale of pay recommended by the Vth CPC and they have no right to claim the pay scales which was alleged to have been made applicable to the Railway staff. The direction of this Tribunal was duly considered by the competent authority and it was found that pay structure of EDP staff in Ordnance Factories was reviewed and revised higher pay scale was made applicable based on OM dated 11.9.1989 and there was no scope to re-review the matter again as there is no scope for comparing the structure and pay scale available in some Ministry/organization with the staff under respondents. Thus, the representation of the applicant was disposed of accordingly and they were informed by speaking order dated 19.5.2005. He further argued that it is the duty of the expert body to study, evaluate and recommend the proper pay scale. This has already been done by the Vth CPC which did not recommend any higher pay scale to EDP staff under the respondents. There is further no scope to interfere with the pay structures of EDP staff which was revised based on the recommendations of the expert committee



constituted by the Government. He further argued that it is settled law on the subject that it is for the expert body to look into the matter of pay scale to a post depending on various facts and interference of court or the Tribunal is not justified except where the court has reason to believe that the scale of pay attached to a particular post is arbitrary or unreasonable. The learned counsel for the respondents has cited the case of the Supreme Court in the case of Supreme Court Employees Welfare Association Vs. Union of India, AIR 1990 SC 334 and the apex court has held that it is not the business of the Supreme Court to fix the scale of pay in any particular category of employees in any institution under Article 32 of the Constitution. He has also argued that more often functions of two posts may appear to be the same or similar but there may be difference in degrees in the performance. The quantity of work may be the same but the quality may be different that cannot be determined by relying upon averments in affidavits of interested parties. Hence, the action of the respondents is perfectly legal and justified and the OA deserves to be dismissed.

5. After hearing the learned counsel for the respondents and on careful perusal of the pleadings and records, we find that the applicants had filed earlier OA No. 115/1995 which was decided by order dated 28.9.1999 on the basis of the order passed by the Hyderabad Bench of the Central Administrative Tribunal much after the implementation of the recommendations of the Vth CPC. The applicants have also filed another OA No. 484/2003 which was decided by the Tribunal vide order dated 9th September, 2003. By this order the Tribunal directed the respondents to consider and to decide the applicants' representation. We have perused the order passed by the respondents in compliance of the aforesaid order of the Tribunal dated 9.9.2003 passed in OA No. 484/2003. This order seems to be speaking and reasoned order. The applicants have not filed any rejoinder against the return and additional return filed on behalf of the respondents controverting the contentions raised by the respondents in



the same. The arguments advanced on behalf of the respondents that the courts or Tribunals should not interfere in the matter of pay scales except where the court has reason to believe that the scale of pay attached to a particular post is arbitrary or unreasonable seems to be legally correct. The applicants have not cited any order passed by any court or Tribunal in respect of their grievances after the implementation of the recommendations of the Vth CPC.

6. Considering all the facts and circumstances of the case, we are of the opinion that this Original Application is liable to be dismissed as having no merits. Accordingly, the Original Application is dismissed. No costs.

7. The Registry is directed to supply the copy of memo of parties to the concerned parties while issuing the certified copies of this order.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

पृष्ठांकन सं. ओ/न्या.....
प्रतिलिपि अन्यों को दिया जाएगा.....
“SA”
(1) सचिव, उच्च व्यापारिक वार एवं विधायन, जबलपुर
(2) आवेदक श्री/श्रीमती/कु.....
(3) प्रत्यर्थी श्री/श्रीमती/कु.....
(4) विधायक, केंद्रीय, जबलपुर व्यापारी
सूचना एवं आवश्यक कार्यकारी हेतु
मान्यता दिया जाएगा

मान्यता दिया जाएगा

m/s/ M.P. Singh
P. Sh. K. Karan
Dated 22/08/2008

26/8/2008
26/8/2008