

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-2380/2010

Reserved on : 19.10.2016.

Pronounced on : 26.10.2016.

Hon'ble Mr. Shekhar Agarwal, Member (A)
Hon'ble Dr. Brahm Avtar Agrawal, Member (J)

1. Sharad Tewatia,
S/o Sh. Randhir Singh,
R/o 1449/82, Durga Puri,
Gali No. 5, Shahdra,
Delhi-93.
2. Devender Singh,
S/o Sh. Darshan Singh,
R/o A-4, Fire Station Moti Nagar,
New Delhi-15.
3. Suman Kumar,
S/o Sh. Dharam Dass,
R/o Vill. & P.O. Barwasni,
Distt. Sonapat, Haryana.
4. Sijender,
S/o Sh. Jai Singh,
R/o Vill. & P.O. Bawana Lakha,
Distt. Panipat, Haryan.
5. Ram Prakash,
S/o Late Sh. Deep Chand Sharma,
R/o 336, Vill. & P.O.,
Nangal Thakran, Delhi-39.

..... Applicant

(through Sh. Ajesh Luthra, Advocate)

Versus

1. Govt. of NCT of Delhi
Through the Chief Secretary,
5th Floor, Delhi Sachivalaya,
New Delhi.

2. The Principal Secretary
(Home), GNCT of Delhi,
5th Floor, 'C' Wing,
Delhi Secretariat,
I.P. Estate, New Delhi.
3. The Director,
Delhi Fire Service,
Connaught Place,
New Delhi.
4. Ministry of Home Affairs
Through its Secretary,
North Block, New Delhi.
5. Ministry of Finance
Through its Secretary,
North Block,
New Delhi.

..... Respondents

(through Sh. Hanu Bhaskar and Ms. Ritika Chawla, Advocates)

O R D E R

Mr. Shekhar Agarwal, Member (A)

This O.A. was earlier disposed of vide order dated 15.11.2011 and directions were issued to the respondents to place the matter before the Anomaly Committee for appropriate decision. Thereafter, RA-100/2013 was filed before us, which was allowed on the ground that the Anomaly Committee set up by the Government of India pursuant to the decision of VIth Central Pay Commission (CPC) was no longer in existence. The O.A. was restored to its original position and was re-heard by us. On our directions, Ministry of Finance, Government of India and Ministry of Home Affairs,

Government of India were also impleaded as parties in this case as respondents No. 5 & 4 respectively. The newly impleaded respondents, however, failed to file reply despite several opportunities granted to them and despite several letters written to them by learned counsel for the Union of India Sh. Hanu Bhaskar. We, therefore, proceeded to hear the case on the basis of material available on record. During the course of arguments, Ms. Ritika Chawla, learned counsel for the GNCTD submitted that even though respondents No. 4 & 5 have not filed their reply, the stand taken by them can be seen in Annexure-RA/R-1 to the reply filed by GNCTD in RA-100/2013.

2. The applicants are working as Fireman/Leading Fireman with the GNCTD. All of them were appointed as Fireman on regular basis between the period 04.12.1991 to 01.10.2002.

3. Prior to IVth CPC the Fireman in Delhi Fire Service was placed in the pay scale of Rs. 260-400 whereas the Head Constable in Delhi Police was sanctioned pay scale of Rs. 260-350. However, after IVth CPC, the pay scale given to Fireman was Rs. 950-1500 whereas Head Constables of Delhi Police were given Rs. 975-1660. Similarly, Leading Firemen, who were earlier in the pay scale of Rs. 330-480 equivalent to the pay scale of Asstt. Sub-Inspector in Delhi Police were given the pay scale of Rs. 1200-1800 by the IVth CPC whereas Asstt. Sub

Inspectors in Delhi Police were given the pay scale of Rs. 1320-2040. The Municipal Corporation of Delhi (MCD) under whose control Delhi Fire Service was operating at that point of time constituted a Sub-Committee through the Standing Committee to examine the proposals of IVth CPC and make recommendations thereon. As far as the applicants were concerned, the Sub-Committee made the following recommendation:-

“The Sub-Committee strongly felt that an important wing of the Municipal Service was MCD Fire Service. It was a disciplined force like the Police and was required to perform most hazardous and arduous nature of duties at all odd hours. In the interest of developing and maintaining a satisfied force, it is most essential that the proposals with regard to the entire personnel of Fire Service be brought at par with comparable service like the Delhi Police.”

This was approved by MCD and a proposal was sent to the Ministry of Home Affairs, Government of India. Ministry of Home Affairs granted approval to the said proposal on 09.05.1988 vide their letter No. U.14011/16/88-Delhi. Thereafter, vide Resolution No. 320 dated 27.06.1988, MCD approved higher pay scale of Rs. 975-1660 for Fireman and Rs. 1320-2040 for Leading Fireman.

4. The Delhi Fire Service was brought under the administrative control of GNCTD in the year 1994 and the benefit of the aforesaid Resolution was extended to them after Vth CPC as well. Thus, Firemen in DFS were given the pay scale of Rs.3200-4900 as given to Head Constables in Delhi Police as replacement pay scale of Rs.

975-1660. The Leading Firemen were similarly placed in the replacement pay scale of Rs. 4000-6000. Consequently, parity with Head Constables and Asstt. Sub-Inspectors of Delhi Police was maintained. Even in other perquisites, such as, ration money and 13th monthly compensatory pay, parity was maintained between the two. Further, 401 new posts of Fireman created on 07.01.2008 were also given the pay scale of Rs. 3200-4900. Thus, upto the Vth CPC parity was maintained with Delhi Police.

5. However, VIth CPC made the following recommendations for the Fire Services:-

“3.8.12 Fire fighting staff exists in various Union Territories as well as different Government organizations. Their job requirements and duties necessitate that the various posts of fire fighting staff should be afforded pay scale on par with those being recommended for the posts of Constable and Head Constable in CPMFs, Delhi Police, IB and CBI. Accordingly, the pay scale of the fire fighting personnel in various UTs and departments/ministries of Central Government shall be revised as under:

Designation	Present pay scale	Recommendation pay scale	Corresponding Pay Band & Grade Pay	
Firemen	2610-3540	3050-4590	PB-1	1900
Leading Fireman	3050-4590	3200-4900	PB-1	2000
Station Officer	4000-6000	4500-7000	PB-1	2800
Asstt. Divisional Fire Officer	5000-8000	6500-10500	PB-2	4200
Deputy Divisional Fire Officer	6500-10500	7450-11500	PB-2	4200
Divisional Fire Officer	8000-13500	8000-13500	PB-3	5400

6. The grievance of the applicants is that VIth CPC has granted grade pay of Rs. 1900 in PB-I to Fireman instead of grade pay of Rs. 2000 whereas Leading Fireman has been granted grade pay of Rs.2000 instead of Rs.2800. The applicants made a representation for redressal of their grievances but the respondents, according to them, have not taken any decision so far. They have, therefore, filed this O.A. seeking the following relief:-

“(a) direct the respondents to grant one step higher pay scale and maintain the pay parity of the applicants (Fireman and Leading Fireman of Delhi Fire Service) with that of Head Constables & Asstt. Sub-Inspectors of Delhi Police and CPMFs with effect from 1.1.2006 alongwith all consequential benefits.

(b) award costs of the proceedings and

(c) pass any other order/direction which this Hon'ble Tribunal deem fit and proper in favour of the applicant and against the respondents in the facts and circumstances of the case.”

7. In reply GNCTD has submitted that in implementation of VIth CPC recommendations normal replacement pay scales have been approved as per the Instructions of Ministry of Finance. Thus, the department has acted as per the directions received for implementing the VIth CPC recommendations.

8. As mentioned above, this O.A. was earlier disposed of vide our order dated 15.11.2011 with a direction to the respondents to place the matter before the Anomaly Committee for appropriate decision. The O.A. applicants have, however, filed RA-100/2013 in which they

stated that the Anomaly Committee set up by the Government of India pursuant to the decision of VIth CPC was no longer in existence. Consequently, the RA was allowed and the O.A. was re-heard by us.

9. In reply to RA-100/2013 GNCTD has stated that the case of the applicants was referred by them to Ministry of Home Affairs, Government of India. That Ministry consulted the Department of Expenditure, Ministry of Finance. It was felt that the existing grade pay/pay scales for the post of Fireman and Leading Fireman in DFS were already higher vis-a-vis the recommendations made by VIth CPC. Consequently, the claim of the applicants was rejected. Along with their reply, GNCTD have annexed a copy of letter dated 19.07.2012 received from Ministry of Home Affairs as well as the advice given by Ministry of Finance, Department of Expenditure. Ministry of Finance has observed that the pay scales/grade pay of DFS was already higher vis-a-vis recommendations of VIth CPC. As such, no case for up-gradation of these pay scales was made out. They also observed that the Anomaly Committee was no longer in existence. Ministry of Home Affairs has more or less dittoed their advice.

10. Learned counsel for the applicants argued that the action of the respondents was highly illegal and arbitrary. Before the

recommendations of IVth CPC, Fireman in Fire Service of Delhi were enjoying higher pay scales than the Head Constables of Delhi Police and Leading Fireman were enjoying parity with Asstt. Sub-Inspectors in Delhi Police. Later on, when IVth CPC recommended lower pay scales, the Government did not accept the recommendations of the Pay Commission with respect to Fireman and Leading Fireman and stepped up the pay scale granted to them. Thus, the disparity arising due to IVth CPC recommendations was removed. Thereafter, parity has been maintained between the two i.e. DFS and Delhi Police for decades. This cannot be disturbed without any justification. He further stated that DFS has a distinct and different organisational structure. The Chief Fire Officer has been placed in PB-4 with grade pay of Rs.8900/- whereas in other States this post is in PB-3 with grade pay of Rs. 5400/-. Likewise, Station Office of DFS is in the grade pay of Rs. 4600/- whereas in States it is Rs.2800/- only. The decision to grant one step higher pay scale to DFS was taken by Ministry of Home Affairs and that decision is still subsisting.

11. We have heard both sides and have perused the material placed on record. We have also seen the recommendations of VIth CPC regarding the pay scales of Fire Services in various Union Territories, which have been extracted in earlier part of the judgment. From the chart, it is obvious that the recommendations of the Pay Commission are with regard to staff of Fire Services of all

Union Territories as well as different Government organisations. They have not taken into account the fact that DFS Fireman as well as Leading Fireman were getting pay scale higher than their counterparts in other Union Territories as well as Government organizations. Thus, in the same chart, it can be seen that the existing pay scale of Fireman has been taken by the VIth Pay Commission to be Rs. 2610-3540 whereas DFS Fireman were getting higher pay scale of Rs. 3200-4900. Similarly Leading Fireman's pre-revised scale has been shown as Rs.3050-4590 whereas they were actually getting Rs.4000-6000. Had the correct pay scales already enjoyed by DFS been taken into account, the replacement pay scales would also have been higher. From the same chart, it is evident that the replacement pay scale for Rs. 3200-4900, which was the pay scale granted to Fireman in DFS was PB-I with grade pay of Rs. 2000/- whereas replacement pay scale for Rs.4000-6000 already enjoyed by Leading Fireman of DFS was PB-I with grade pay of Rs. 2800/-. Thus, in our opinion, the error has occurred on account of wrong input being provided to the Pay Commission inasmuch as the Pay Commission was not informed that DFS staff was enjoying pay scale higher than other fire service of other Union Territories and States.

12. This is also evident from the advice given by Ministry of Finance. While they have correctly noted in their advice the existing pre-

revised pay scales of Fireman/Leading Fireman of DFS, they have failed to notice that the correct replacement pay scales were not granted to them.

13. This, in fact, was not a case of parity with Delhi Police as has been argued. This parity had been conceded long time back and there is nothing in the recommendations of the Pay Commission by which it can be concluded that they have disturbed this parity. The error occurred because recommendations have been made by the VIth CPC for all Fire Services of different States and Union Territories put together ignoring the fact that Fireman of DFS were enjoying the pay scale higher than the other.

14. In view of the aforesaid, we allow this O.A. and direct that Fireman of DFS will be placed in PB-I with grade pay of Rs.2000/- whereas Leading Fireman will be placed in PB-I with grade pay of Rs.2800/- w.e.f. 01.01.2006. The applicants shall also be entitled to arrears arising out of the aforesaid. Considering the facts and circumstances of this case, we are not inclined to grant any interest on the arrears. The above benefits shall be extended to the applicants within 08 weeks from the date of receipt of a certified copy of this order. No costs.

(Dr. Brahm Avtar Agrawal)
Member (J)
/Vinita/

(Shekhar Agarwal)
Member (A)