

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

**OA No.3719/2014
MA No.3199/2014**

RESERVED ON: 3.12.2015
PRONOUNCED ON: 16.12.2015

**HON'BLE MR. JUSTICE SYED RAFAT ALAM, CHAIRMAN
HON'BLE MR. P.K. BASU, MEMBER (A)**

1. Sh. Mahesh Batra (ACP)
S/o Shri R.P. Batra, Age 50 years
R/o 2070, Type IV, Delhi Admn. Flats
Gulabi Bagh, Delhi-110007
2. Gyanendra Singh Awana (ACP)
S/o Shri B.R. Choudhary, Age 56 years
R/o B-49, West Vinod Nagar,
Delhi-110092

...Applicants

(By Advocate: Shri Naresh Kaushik)

VERSUS

1. Union of India,
Through Secretary,
Ministry of Home Affairs,
North Block, New Delhi-110001.
2. Government of NCT
Through Secretary,
Home Police I/ Establishment Department
5th Level, C Wing, Delhi Sachivalaya,
I.P. Estate, New Delhi

...Respondents

(By Advocates: Sh.Amit Anand and Sh.Subhash Gosain)

ORDER

Mr. P.K. Basu, Member (A)

We are concerned here with the Technical Branch;
Communication Branch and Delhi, **Andaman & Nicobar** Islands,
Lakshadweep, Daman & Diu and Dadra & Nagar Haveli Police

Service (DANIPS) cadres of Delhi Police. They are three separate cadres undertaking separate functions but the hierarchy of posts in three cadres is linked at one stage viz. the stage of Assistant Commissioner of Police (ACP). Officials of all the three cadres get posted as ACP. In the DANIPS cadre, officers are recruited through Civil Services Examination (CSE) conducted by the Union Public Service Commission (UPSC) and the incumbents after joining DANIPS are posted as Assistant Commissioner of Police (ACP). Both the applicants, who belong to the technical cadre, were recruited by Delhi Police as Sub Inspector under the Recruitment Rules (RRs) of that cadre. Similarly, the personnel in the communication cadre are recruited through the UPSC as ACP (Communication) through a separate exam by the UPSC.

2. In the DANIPS cadre, the officials are entitled to non-functional higher pay scale of PB-III i.e. Rs.15600-39100 plus Grade Pay of Rs.7600/- on completion of 13 years of service and PB-IV i.e. Rs.37400-67000 plus Grade Pay of Rs.8700/- on completion of 18 years of service.

3. It has been argued by the applicants that Electronics Data Processing scale pursuant to Sheshagiri Committee Report was accepted and extended to the Civilian Staff of Delhi Police (i.e. computer field personnel without Rank). However, the same was denied to the applicants in view of the fact that they were being given rank and corresponding pay scale as was extended to other identically placed ranks of Delhi Police, evidently

analogous to their counter parts in Delhi Police. This led to legitimate expectation on the part of the applicants that this system of promotion and pay structure shall be continued, as a reason whereof the applicants did not pursue their claim for the EDP scale which was accepted and made applicable to all the civilian computer personnel of Delhi Police. However, now the impugned actions and omissions of the respondents have left the applicants in a lurch wherein they are neither getting the benefits under the EDP scale nor the benefits as are extended to other identically placed DCP/ ACP (Communication) of Delhi Police analogous to the DANIPS, resulting in a situation of double edged loss.

4. The applicants' case is that since they are also posted as ACPs just like DANIPS cadre, they should also be given the benefit of non-functional upgraded pay scales of PB-III with Grade Pay Rs.7600/- and PB-IV with Grade Pay Rs.8700/- on completion of 13 and 18 years of approved service respectively as according to them, otherwise it is discriminatory and violative of Articles 14 and 16 of the Constitution of India. Further, they seek to strengthen their case on the ground that from the Communication Wing, three officers namely Shri Naved Mumtaz, Shri Satyawan Gautam and Shri Shive Keshari Singh were given the benefit of the upgraded scales as sought by the applicants, although they do not belong to DANIPS cadre, but only the applicants have been left out. The applicants further drew our attention to the fact that two other non-DANIPS officers namely Shri L.N. Rao and Shri Ravi Shankar, ACPs were also given the

benefit of upgradation being sought by them. It is argued that once the respondents have granted the benefit to the communication cadre and two non-DANIPS cadre ACPs, there is no ground whatsoever to deny the said benefit to the applicants. Shri Rao and Shri Ravi Shankar, both belong to the feeder cadre of DANIPS.

5. The learned counsel for the applicants drew our attention to order dated 4.01.2013 issued by the GNCT of Delhi in pursuance of MHA, Govt. of India order dated 30.08.2012 in which the upgradations after 13 years and 18 years have been allowed to three Communication Cadre Delhi Police Officers where it is stated that "In pursuance of MHA, Govt. of India, Order No.14016/13/2000 UTS.II dated 30th August, 2012, the Lieutenant Governor, NCT of Delhi is pleased to grant promotional pay scale (non-functional basis) **analogous to DANIPS officers.....**", thereby claiming that MHA and GNCT Delhi agree that the communication cadre is analogous to the DANIPS Cadre and by the same analogy, technical cadre should also be treated as analogous to DANIPS Cadre.

6. The respondents have examined this issue and vide orders dated 20.03.2014 and 20.05.2014, rejected the claim of the applicants. The reasoning why their request has been rejected is given in detail in para 4 of letter dated 20.03.2014, which we quote below for ready reference:

"i At the outset it may be observed that applicants are claiming pay/benefits of service analogous to that of DANIPS. DANIPS are recruited

through the CSE Exam conducted by the UPSC, whereas the applicants were recruited as sub-inspectors under the different RRs. It is not understood as to why and on what basis the applicants are claiming pay parity with DANIPS and why the GNCTD has referred their claim to Ministry. It may be observed that even the officers from feeder grade services of the UT police who are inducted to DANIPS against the promotion quota vacancies are promoted to the Selection Grade (GP Rs.6600/-) and most of them get retired from the Entry Grade (GP Rs.4800/- or Rs.5400/-). Hardly any officer, appointed in DANIPS on promotion quota, reaches the level of JAG-II (GP 7600/-).

ii The proposal sent by the Government of NCT of Delhi is not clear. While claiming benefits analogous to DANIPS, the Government of NCT of Delhi has mentioned the pay scale of PB-3 with GP Rs.7600/- and PB-4 with GP of Rs.8700/-, as **non functional**. It may be observed that the pay scale of PB-3 with GP Rs.7600/- is **not** non functional in case of DANIPS. Further promotion to the GP of Rs.7600/- and GP 8700/- are also subject to availability of vacancy and assessment of the officer by DPC held under the aegis of UPSC. In fact, the pay scale of the applicants should be decided by the GNCTD as per the relevant RRs. Instead of referring the matter to MHA, the Delhi Government should decide the matter as per the extant RRs.

iii Shri G S Awana and Shri Mahesh Batra were recruited by the Delhi Police/GNCTD under RRs different from DANIPS. Their pay and promotions should be governed by the said RRs vide which they were recruited. Further, it is not clear as to on what basis the officers are claiming their pay and other benefits analogous to the officers who have been recruited on different RRs.

iv. In the representations of the applicants as well as in the letter of the Government of NCT of Delhi it is mentioned that the MHA has given benefits to 5 officers(details mentioned in para 2 of the letter of GNCTD) and only 2 officers are left. It is not understood as to on what basis the GNCTD has compared Shri Awana and Shri Batra with those 5 officers. In fact, the officers mentioned at Sl.No. 1-3, viz, Shri Naved Mumtaz, Shri Sartyawan Gautam and Shri S.K.Singh were recruited by the GNCTD through UPSC as ACP (Communication) (through the exam different from CSE). However, the posts of ACP (Communication) were encadred in DANIPS prior to their recruitment. Later, on receipt of

representations from these officers, the proposal has been sent to UPSC for assessment of the eligibility of these 3 officers for their induction to DANIPS in terms of Rule 4 and Rule 6 of DANIPS Rules, 2003. Shri Awana and Shri Batra were recruited as Sub-Inspectors whereas Shri Naved Mumtaz, Shri Satyawan Gautam and Shri S.K.Singh were recruited as ACP through UPSC.

v. The Ministry being the cadre controlling authority of DANIPS, is concerned for DANIPS officers. The issue regarding the applicants may be considered and decided by the GNCTD as per rules, as the applicants are not DANIPS officers and their recruitment was done by the Delhi Police/GNCTD."

In letter dated 20.05.2014, further clarification is given as follows:

"The applicants cannot compare their services with these officers as S/Sh.Naved Mumtaz, Satyawan Gautam Sh.S.K.Singh were recruited by the GNCTD through UPSC as ACP (Communication). However, the posts of ACP (Communication) were encadred in DANIPS prior to their recruitment. Further, Sh L.N.Rao and Shri Ravi Shankar, were appointed as Sub Inspector (Exe) under different RRs and after getting two out of turn promotions, were promoted to ACP. They were granted pay scales analogous to DANIPS Officers, outside the cadre of DANIPS in accordance with the advice/direction of MHA, Govt. of India in compliance of Hon'ble CAT's decision in OA Nos. 162/2008 & 170/2008 and with the approval of the competent authority i.e. Hon'ble L.G. of Delhi.

Whereas, Sh G.S Awana and Shri Mahesh Batra were initially appointed as Sub Inspector in Computer/IT cadre of Delhi police and promoted as Inspector under different RRs. As per RRs of ACP (Programmer), the next promotional posts is System Analyst (DCP) and revision of recruitment rules of this post is under consideration. However, as per existing RRs, ACP (Programmer) with 8 year's regular service in the grades are eligible for the post of System Analyst (DCP) in the pay scale of Rs.3000-100-3500-125-4500 (Pre-revised) presently Rs.15600-39100/- with GP Rs.6600/- in PB-3 (Revised). And these officers were already been granted pay scale of PB-3 Rs.15600-39100 with Grade Pay of Rs.6600/- after completion of 8 years

of service as ACP. At this stage they are not entitled for any further financial upgradation.

Therefore, the request of applicants for grant of pay scale analogous to other Non-Cadre/Non DANIPS officers cannot be acceded to. The representationist may be informed accordingly."

7. Being aggrieved by these orders, the applicants have filed this OA seeking the following reliefs:

- "a) Allow the present original application; and
- b) Direct the respondents to grant and extend similar career progression and pay structure as is applicable to DCP/ACP (Communication) cadre of Delhi Police; and
- c) Quash and set aside communication dated March 20, 2014 and May 20, 2014; and
- d) Direct the respondents to grant non functional promotional pay scale in PB III of Rs.15600-39100 with grade pay of Rs.7600/- on completion of 13 years of service; and
- e) Direct the respondents to grant non functional pay in PB-IV Rs.37400-67000 with grade pay Rs.8700/- on completion of 18 years of service."

8. Learned counsel for the applicants placed before us the following grounds in support of their relief:

- (i) It is discriminatory and violative of the Fundamental Rights under Article 14, 16 and 21 as enshrined under the Constitution of India inasmuch as the Applicants have been arbitrarily denied the promotional scale and grade pay as is granted to other similarly placed DCPs/ ACPs (Communication) Delhi

Police analogous to DANIPS without any justifiable reason/ground.

- (ii) The EDP scale was denied to them primarily on the ground that they were being given rank and corresponding pay scale as was given to other identically placed counterparts in DANIPS but now they are in a situation where they have been denied both the benefits under the EDP scale as also the benefits being extended to DCP/ACP (Communication), Delhi Police analogous to the DANIPS.
- (iii) If the other non-DANIPS cadres, who have separate RRs than the DANIPS, can be given the benefit, then it is discriminatory on the part of the respondents to deny the same benefit to the applicants on the ground that they should be covered by their own RRs.
- (iv) It is stated that as a result of this Tribunal's order dated 18.04.2011 in OA 3547/2010, **Virender Singh and anr. Vs. Govt. of NCT, Delhi**, the respondents have allowed higher grade on completion of four years and selection grade on completion of eight years of service at par with DANIPS Rules. However, they have denied the applicants further benefits of higher grade on completion of 13 years (JAG) and 18

years of service (SAG) without any justification.

9. Applicant no.2 in the present OA was one of the applicants in Virender Singh (supra). The grievance there was that even after efflux of 15 years, their services had not been regularized and that they had been denied the scales of pay of Rs.8000-13500/- and Rs.10000-15200/- sanctioned after four and eight years of service in the grade of ACP, on par with DANIPS and the OA was disposed of vide order dated 18.04.2011 as follows:

"4. The stand taken by the Respondents is most unjust. The Applicants cannot just remain in a post on *ad hoc* basis for 15 years without any heed being paid to their plight by the Respondents. We, therefore, direct the Respondent, Ministry of Home Affairs, and the GNCTD to notify the recruitment rules for the post of ACP (Programmer) within three months of the receipt of a certified copy of this order by taking suitable care that the Applicants have to be regularised within reasonable time of their promotion in 1996, that is, within one or at most two years of their promotion, if a period of probation of one/two year (s) is provided. The OA is disposed of with these directions and with liberty to the Applicants to file a fresh OA for other grievances. Since the Respondents have dragged the Applicants into litigation because of their own lethargy, each of the Applicant would be eligible for the cost of litigation, which we compute to Rs. 10,000 each."

10. Our attention was also drawn to letter dated 21.03.2013 written by the Joint Commissioner of Police to the Joint Secretary (UT), Ministry of Home Affairs with their recommendations as follows:

"It is pertinent to mention that in the category of Non-Cadre (NON-DANIPS) five officers out of seven have already been granted promotional and financial upgradation. Shri G.S. Awana and Shri Mahesh

Batra are the only two left out officers in Delhi Police whom the promotional and financial up-gradation is to be given. No other working officer other than these are left out in Delhi Police to whom these up-gradation is to be granted.

It is, therefore, recommended that promotional and financial up-gradation may kindly be granted to Shri G.S. Awana, Addl. DCP/Estdt. in the Scale of Rs.7600/- in PB-3 Rs.15600-39000 from due date i.e. w.e.f. 22.05.2009 (date of completion of 13 years of approved service) and to Shri Mahesh Batra, Addl. DCP/IT PHQ w.e.f. 03.10.2010 (date of completion of 13 years of approved service) and both the officers also be approved to be granted the Scale of PB-4 Rs.37400—67000 + Grade Pay of Rs.8700 on due date, analogous to what is given to DANIPS officers and NON-DANIPS (other than DANIPS) (as per order mentioned above) after 18 years of approved service."

11. The respondents in their reply have stated that the three cadres are completely independent with separate RRs and separate hierarchy of posts and job content and, therefore, there is no ground at all for accepting the claim of the applicants. In short, DANIPS officers are recruited through UPSC and posted as ACPs. Applicants were recruited as Sub Inspectors under their own RRs. The communication cadre people were recruited as ACP through a separate examination. On the issue raised by the applicants regarding communication cadre officers and the other non-cadre officers, respondents have replied as follows:

"Shri Naved Mumtaz, Shri Satyawan Gautam and Shri Shive Keshari Singh, ACP were recruited through UPSC as ACP (Communication). However, the posts of ACP (Communication) were encadred in DANIPS prior to their recruitment. Now these officers are also inducted into DANIPS. As regards, Sh. L.N. Rao and Shri Ravi Shanker, these officer were recruited as Sub Inspector and promoted out of turn as Inspector and ACP/ DANIPS. They claimed for seniority from the date of promotion as ACP (Out of Turn). They were placed in the Seniority List of

DANIPS vide MHA's order dated 18.02.2011 which was subsequently revised vide order dated 8.07.2011. As per the recommendation of the DPC and in consultation with the UPSC Sh. L.N. Rao was promoted to the Selection Grade of DANIPS against the vacancy of the year 2003. Thereafter, the some incumbents of DANIPS Cadre challenging the order of MHA dated 18.02.2011 filed O.A. No.2524/2011 in the CAT. The Hon'ble CAT vide judgment dated 26.08.2011 quashed and set aside the MHA's order dated 18.02.2011 and given liberty to seek their induction and seniority in DANIPS from the official respondents by making representation, if they may so choose appeal against the orders. Accordingly, MHA vide office memorandum dated 8th August, 2012 (Annexure - III) has decided in order to comply the orders passed by the Hon'ble CAT without affecting the seniority list, Shri L.N. Rao and Shri Ravi Shanker are placed outside the cadre of DANIPS. They are given all the pay and benefits analogous to DANIPS officers from outside the DANIPS cadre."

12. Learned counsel for the respondents also relied on the decision of the Apex Court in **Govt. of W.B. Vs. Tarun K. Roy**, (2004) 1 SCC 347, wherein their Lordships in paras 14 and 30 of the order held as under:

"14. Article 14 read with Article 39 (d) of the Constitution of India envisages the doctrine of equal pay for equal work. The said doctrine, however, does not contemplate that only because the nature of the work is same, irrespective of an educational qualification or irrespective of their source of recruitment other relevant considerations the said doctrine would be automatically applied. The holders of a higher educational qualification can be treated as a separate class. Such classification, it is trite, is reasonable. Employees performing the similar job but having different educational qualification can, thus, be treated differently."

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"30. The respondents are merely graduates in Science. They do not have

the requisite technical qualification. Only because they are graduates, they cannot, in our opinion, claim equality with the holders of diploma in Engineering. If any relief is granted by this Court to the respondents on the aforementioned ground, the same will be in contravention of the statutory rules. It is trite that this Court even in exercise of its jurisdiction under Article 142 of the Constitution of India would not ordinarily grant such a relief which would be in violation of a statutory provision."

Following the aforesaid decision, the Apex Court in **State of M.P. Vs. Ramesh Chandra Bajpai**, (2009) 13 SCC 635, held that similarity in designation or quantum of work is not determinative of equality in matter of pay scales, and that discrimination on account of equal pay for equal work is a positive concept of equality, and it cannot be invoked for perpetuating illegality. The learned counsel also relied on the judgment of the Hon'ble Supreme Court in **State of West Bengal and ors. Vs. West Bengal Minimum Wages Inspectors Association and others**, (2010) 5 SCC 255 wherein the Hon'ble Court held that determination of pay parity is an executive function to be carried out by expert bodies and that the Court would interfere only where the executive decision is patently irrational, unjust or prejudicial.

13. We have heard the learned counsel for the parties and gone through the pleadings available on record.

14. The issue before us is as follows:

- (i) Can the applicants claim the service benefits of another cadre just because one post in the hierarchy (in this case ACP) overlaps?; and

(ii) If there is discrimination by the respondents in giving benefit of upgradation after 13/18 years of service to the Communication Cadre ACPs and other non-DANIPS cadre ACPs, namely, Shri L.N. Rao and Shri Ravi Shankar, while leaving out the applicants, does this violate Articles 14 and 16 of the Constitution of India?

15. As regards the first issue, clearly each cadre has its Rules and incumbents of a cadre are governed by the RRs of that particular cadre. It may happen, as in this case, that certain posts in government are manned by officials of different cadres but that does not, in any way, generate any right for either cadre to claim benefits under the provisions of RRs of another cadre. For example, the post of Deputy Secretary/ Director/ Joint Secretary is held by officers belonging to different cadres, viz., IAS, IAAS, IRS and even the Central Secretariat Service (CSS) officers. They function on these posts and then they branch out to higher posts in their respective cadres. A CSS officer cannot claim that just because he has held the post of Director, which has also been held by an IAS officer, he should be given the benefit of the RRs or the Cadre Rules of IAS/ IAAS/ IRS etc. This is clearly not admissible as it will render the whole structure of the government in a state of chaos and utter confusion. Therefore, we are not convinced with the argument of the learned counsel for the applicants at all, and are of the opinion that each cadre will be governed by its own Cadre Rules. Thus the prayer of the applicants that because they have been

holding the post of ACP as held by DANIPS officers, they should also be given the benefit of upgradation after 13/18 years of service, as provided in the Cadre Rules of DANIPS, cannot be acceded to.

16. Now we come to the question of discrimination *vis-à-vis* Communication Cadre and other non-DANIPS cadre officers who have been given the benefit. Here again, the facts show that recruitment of DANIPS and Communication Cadre officers is at the level of ACP and that of the applicants is at the level of Sub Inspector. Shri L.N. Rao and Shri Ravi Shankar became ACP as a result of out of turn promotion for showing bravery. Thus all the three stand on a different footing.

17. Article 14 of the Constitution of India according to Durga Das Basu, Thirteenth Edition, Reprint 2004, enshrines the principle of equality as follows:

1. The principle of equality does not mean that every law must have universal application for all persons who are not by nature, attainment or circumstances in the same position, as the varying needs of different classes of persons often require separate treatment.

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2. Every classification is in some degree likely to produce some inequality, and mere production of inequality is not enough [**State of Bombay Vs. Balsara F.N.**, AIR 1951 SC 318].

Differential treatment does not per se constitute violation of Art. 14. It denies equal protection only when there is no reasonable basis for the differentiation [**Ameeroonissa Begum Vs. Mehboob Begum**, AIR 1953 SC 91].

3. If a law deals equally with members of a well-defined class, it is not obnoxious and it is not open to the charge of denial of equal protection on the ground that it has no application to other persons [**State of Bombay Vs. Balsara F.N.**, AIR 1951 SC 318]. The pensioners form a class distinct to those in service [**Sasadhar Chakravarty Vs. Union of India**, AIR 1997 SC 336], and so are the prisoners and non-prisoners [**Anukul Chandra Pradhan Vs. Union of India**, (1997) 6 SCC 1]; and the employees stationed within a project area and the employees stationed outside [**M.V. Srinivasa Vs. State of A.P.**, (1997) 6 SCC 589].

As has been already stated, what Art. 14 prohibits is class legislation and not reasonable classification for the purpose of legislation [**Budhan Chowdhry Vs. State of Bihar**, AIR 1955 SC 191]. If the Legislature takes care to reasonably classify persons for legislative purposes and if it deals equally with all persons belonging to a 'well defined class', it is not open to the charge of denial of equal protection on the ground that the law does not apply to other persons [**State of W.B. Vs. Anwar Ali Sarkar**, AIR 1952 SC 75].

3. (a) Art. 14 does not insist that legislative classification should be scientifically perfect or logically complete [**Kedar Nath Bajoria Vs. State of W.B.**, AIR 1953 SC 404].

The Court would not interfere unless the classification results in pronounced inequality. On the other hand, it would not uphold mini-classification where the differences between the classes or categories are inconsequential [**State of Kerala Vs. Roshana T.P. Kumari**, AIR 1979 SC 765].

Article 16

3. As stated earlier, Art. 16 is only an instance of the application of the general rule of equality laid down in Art.14 and it should be construed as such. Hence, Art. 16 does not debar a reasonable classification of the employees in the matter of appointment or promotion [**Jaisinghani S.G. Vs. Union of India**, AIR 1967 SC 1427], provided the classification is made with reference to the objective to be achieved [**Union of India Vs.**

Kohli, AIR 1973 SC 811] as equality of opportunity means equality as between members of the same class of employees and not between that of separate independent classes [**Union of India Vs. No.664950 IM Havildar/ Clerk**, AIR 1999 SC 1412]

- (a) Guards and Roadside Station-masters being two distinct and separate classes, a notification which prescribes a separate channel of promotion for Guards to higher grade Station-masters cannot be challenged as contravening Art.16 (1) [**All India Station Masters' Association Vs. General Manager, Central Railways**, AIR 1960 SC 384].
- (b) Classification is permissible between direct recruits and promotees, in the matter of further promotion [**Mervyn Coutindo Vs. Collector of Customs, Bombay**, AIR 1967 SC 52].
- (c) Where two separate services are brought together for certain purposes, but they are kept as separate categories, no question of violation of Art. 16 (1) arises on the ground that the Government has not created an integrated cadre [**Wadhwa Ram Lal Vs. State of Haryana**, AIR 1972 SC 1982].

Parity in promotional avenues – Employees belonging to different cadre are not entitled to claim parity in promotional avenues with the employees of another cadre [**Technical Executive (Anti-Pollution) Welfare Association Vs. Commissioner of Transport Deptt.**, AIR 1997 SC 3662] so also an employee of a lower post cannot with that of an employee of a higher post [**State of U.P. Vs. Sachidanand Srivastava**, AIR 1999 SC 1934]."

18. In **Vikram Cement and ors. Vs. State of Madhya Pradesh and ors.**, AIR 2015 SC 2397, the Hon'ble Supreme Court observed as under:

"10. The scope, content and meaning of Article 14 of the Constitution has been the subject-matter of intensive examination by this Court in a catena of decisions. It would, therefore, be merely adding to the length of this judgment to recapitulate all those decisions and it is better to avoid that exercise save and except referring to the latest decision on the subject in *Maneka Gandhi v. Union of India* [(1978) 1 SCC 248], from which the following observation may be extracted:

"...what is the content and reach of the great equalising principle enunciated in this Article? There can be no doubt that it is a founding faith of the Constitution. It is indeed the pillar on which rests securely the foundation of our democratic republic. And, therefore, it must not be subjected to a narrow, pedantic or lexicographic approach. No attempt should be made to truncate its all embracing scope and meaning for, to do so would be to violate its activist magnitude. Equality is a dynamic concept with many aspects and dimensions and it cannot be imprisoned within traditional and doctrinaire limits....Article 14 strikes at arbitrariness in State action and ensure fairness and equality of treatment. The principle of reasonableness, which legally as well as philosophically, is an essential element of equality or non-arbitrariness pervades Article 14 like a brooding omnipresence."

11. The decisions clearly lay down that though Article 14 forbids class legislation, it does not forbid reasonable classification for the purpose of legislation. In order, however, to pass the test of permissible classification, two conditions must be fulfilled, viz. (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from those that are left out of the group; and (ii) that that differentia must have a rational relation to the objects sought to be achieved by the statute in question [See *Shri Ram Krishna Dalmia v. Shri Justice S.R. Tendolkar & Ors.* [1959 SCR 279, 296]]. The classification may be founded on differential basis according to objects sought to be

achieved but what is implicit in it is that there ought to be a nexus, i.e. casual connection between the basis of classification and object of the statute under consideration. It is equally well settled by the decisions of this Court that Article 14 condemns discrimination not only by a substantive law but also by a law of procedure.

(emphasis supplied)"

9. In Re.: Special Courts Bill, (1979) 1 SCC 380], this Court undertook a survey of plethora of decisions touching upon the 'Equality' doctrine enshrined in Article 14 of the Constitution and culled out certain principles. In principle No.3, the Court highlighted that though classification was permissible and it was not for the Courts to insist on delusive exactness or apply doctrinaire tests for determining the validity of classification in any given case, but, at the same time, classification would be treated as justified only if it is not palpably arbitrary. It was also emphasized that the underlined purpose in Article 14 of the Constitution was to treat all persons similarly circumstanced alike, both in privileges conferred and liabilities imposed. Following was the emphatic message given by the Court:

"(4)...It only means that all persons similarly circumstanced shall be treated alike both in privileges conferred and liabilities imposed. Equal laws would have to be applied to all in the same situation, and there should be no discrimination between one person and another if as regards the subject matter of the legislation their position is substantially the same.

(emphasis supplied)"

Another principle which was restated was that the classification must not be arbitrary but must be rational, that is to say, it must not only be based on some qualities or characteristics which are to be found in all persons grouped together and not in others who are left out, but those qualities and characteristics must have reasonable relation to the object of the legislation.

10. Article 14 eschews arbitrariness in any form. This principle was eloquently explained in E.P. Royappa v. State of Tamil Nadu [(1974) 2 SCR 348] holding that the basic principle which informs both Articles 14 and 15 is equality and inhibition against discrimination. We would like to quote the following passage from that judgment as well, which is as under:

"From a positivistic point of view, equality is antithetic to arbitrariness. In fact, equality and arbitrariness are sworn enemies; one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monarch."

Further in **Vidya Sagar Upadhyaya Vs. State of U.P. and ors.**, 1993 AWC 948 All, referring to Article 16 of the Constitution, the Hon'ble High Court of Allahabad recorded as follows:

"The Article 16 is an instance of general rule of equality before law laid down in Article 14 of the Constitution and the prohibition of discrimination guaranteed by Article 15 (1) with special reference to the opportunity for employment for appointment to any office under the State. The Hon'ble Supreme Court has explained the relative scope of Articles 14, 15 and 16 of the Constitution in the following words:

"Article 14 guarantees general right of equality; Articles 15 and 16 are instance of the same right in favour of citizens in some special circumstances, Article 15 is more general than Article 16, the latter being confined to matters relating to employment or appointment to any office under the State Article 15 does not mention descent as one of the prohibited grounds of discrimination whereas Article 16 does."

19. From the above, it would be clear that the classification done by the respondents depending upon cadres, recruitment level, job requirement etc. is not arbitrary but a reasonable classification forming distinct class for the applicants, Communication Cadre and other non-DANIPS Cadre. Therefore, in view of the analysis of the scope and extent of Articles 14 and 16 as enunciated by the Hon'ble Apex Court from time to time, we are of the opinion that the action of the respondents does not

amount to violation of Articles 14 and 16 of the Constitution of India. Therefore, on both counts, the OA does not succeed. It is, therefore, dismissed. No costs.

(P.K. Basu)
Member (A)

(Syed Rafat Alam)
Chairman

/dkm/