

**CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
(CIRCUIT AT PORT BLAIR)**

No. O.A. 351/00088/2013

Date of order: 19.02.2018

**Present: Hon'ble Mr. V. Ajay Kumar, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member**

**Shri P. Gopal Rao
S/o Shri Pollaiah
working as Foreman (Case Room),
Government Press,
Andaman & Nicobar Administration
Port Blair, R/o Shadipur**

.. Applicant

-Versus-

- 1. Union of India
through the Secretary,
Ministry of Home Affairs,
Govt. of India
Shastry Bhavan, New Delhi.**
- 2. The Lt. Governor,
Andaman & Nicobar Islands,
Raj Niwas, Port Blair – 744101.**
- 3. The Chief Secretary,
Andaman & Nicobar Administration,
Secretariat Building,
Port Blair.**
- 4. The Secretary (IP),
A & N Administration,
Secretariat Building,
Port Blair.**
- 5. The Director (IP&T),
Directorate of IP&T,
Andaman & Nicobar Administration,
Port Blair.**
- 6. The Manager,
Government Press,
Andaman & Nicobar Administration,
Port Blair.**

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.. Respondents

For the Applicant : Mr. R. Singh, Counsel

For the Respondents : Mr. S.K Mandal, Counsel
Mr. S.C Misra, Counsel

ORDER

Per Dr. Nandita Chatterjee, Administrative Member:

Aggrieved at non-receipt of pay scale at par with that of Section Holder as well as that of Foreman of the Government of India Press, this application has been filed under Section 19 of the Administrative Tribunal Act, 1985 seeking the following relief:

- "(a) An Order be passed directing the respondent authorities to fix the pay in the scale of pay of Rs. 4500-7000 in the post of Section Holder as per 5th CPC with effect from 27th May 2002 and consequently in the post of Foreman, (Case Room) in the scale of pay of Rs. 5000-8000 with effect from 02.01.2007.
- (b) An order be passed directing the respondent authorities to pay arrears of pay and all the consequential benefits arising out of above pay fixation at (A) herein above.
- (c) Any such order or orders be passed and or direction or directions be given as this Hon'ble Tribunal may deem fit and proper.
- (d) Cost and incidentals to this application."

2. Heard Ld. Counsel for the applicant as well as for respondents, examined documents annexed to pleadings as well as those submitted by the applicant's counsel during course of hearing.

3. Ld. Counsel for the applicant have made the following submissions on behalf of the applicant:

That, the applicant was initially appointed as an officiating Fly Boy with effect from 12.11.1975 in the establishment of Government Press, Port Blair.

That, the applicant was subsequently promoted to the post of Inker, thereafter to Machineman Gr. III and further promoted to Automatic Machineman on 30.10.1995. That, while in the post of Automatic Machineman, he was in the scale of pay of Rs. 4000-100-6000/-.

That, on his promotion to the post of

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Section Holder (Machine), his pay was fixed in the same scale of pay of Rs. 4000-100-6000/- which was an anomaly as the feeder post and the promotional post cannot be in the same scale of pay.

That, in 1981, the respondent authorities re-designated the post in Govt. Press, Port Blair and allowed pay scale at par with the Govt. of India Press according to the handbook rules in Govt. of India Press.

That, his repeated representations to grant him the pay scale of Rs. 4500-125-7500/- as Section Holder and Rs. 5000-8000/- as Foreman at par with the scales allowed to those working in the Govt. of India Press, have not been responded to.

Hence, being aggrieved, the applicant has filed the instant application.

4. Per contra, the Id. Counsel for the respondents have argued as follows:

That, the scale of Automatic Machineman was Rs. 1200-1800/- as per the recommendation of the 4th Central Pay Commission and that of Section Holder (Machine) was Rs. 1320-2040/-. The three scales were merged, namely, Rs. 1200-1800/-, Rs. 1200-2040/- and Rs. 1320-2040/- into a single scale of Rs. 4000-6000/- and hence the scale of Section Holder (Machine) at Rs. 1320-2040/- evolved to Rs. 4000-6000/-.

That, although the applicant's pay at Rs. 4000-6000/- had been fixed on 17.6.2002, the applicant had never objected to the said fixation excepting challenging the same after a period of 12 years in the instant application.

That, the post of Section Holder in Govt. of India Press is completely different from the post of Section Holder (Machine) in the Govt. Press, Port Blair. The post of Section Holder in Govt. Press, Port Blair was created in scale of Rs. 4000-6000/- and granted to the applicant while he was promoted to the post of Section Holder (Machine) in 2002.

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That, the post of Foreman was created in the scale of Rs. 4500-7000 to which the applicant was promoted on 02.01.2007. That, the 5th Central Pay Commission did not recommend the scale of Rs. 5000-8000/- for the post of Foreman in Govt. Press, Port Blair.

The respondents have reiterated that the Section Holder (Machine) in the Govt. Press under the respondent authorities are not similarly situated as that of Section Holder in Government of India press.

ISSUES

5. The singular issue to be resolved in the context of adjudication in the instant application is whether the applicant is entitled to the pay scale of Rs. 4500-7000/- as Section Holder (Machine) in Govt. Press, Port Blair and Rs. 5000-8000/- as Foreman (Case Room) in Govt. Press at Port Blair at par with Section Holder and Foreman of Govt. of India Press.

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FINDINGS

6. Upon hearing the oral submissions as well as examination of documents annexed to the pleadings along with the documents furnished by the applicant during the oral submissions, the following is stated:

(i) The applicant was promoted to the post of Automatic Machineman in the scale of Rs. 1200-1800/- vide order No. 1392 dated 30.10.1995 (annexed as A-5 to the O.A.). The order is reproduced below:

**ANDAMAN AND NICOBAR ADMINISTRATION
DIRECTORATE OF IP&T**

Port Blair, dated the 30th Oct 1995

ORDER NO.1392

On the recommendation of Departmental Promotion Committee Meeting held on 17.10.95, the Secretary (IP&T), A&N Administration has been pleased to grant the Promotion of Shri Gopal Rao, Machineman (Gr-III) Govt. Press, Port Blair to the post of Automatic Machineman in the scale of pay of Rs. 1200-30-1440-EB-30-1990 on regular basis against an existing vacancy due to promotion of Shri Mohanlal, Automatic Machineman to the post of Section Holder (Machine and Binding) with effect from the date of his joining to the post.

2. He will be on probation for a period of 2 (years).

3. On his promotion to the post of Automatic Machineman on regular basis, he shall have an option for fixation of pay in the post of Automatic Machineman in terms of Govt. of India, Ministry of Personnel, Public Grievances and Pensions (Dept. Of Personnel and Training) New Delhi, Notification No. 1/10/89-Estt. (Pay-1) dated 30.08.1989. The option shall be furnished within one month on the date of issue of the order.

4. In respect of matters not specified above, he shall be governed by the relevant rules and order of the Govt. of India, issued from time to time in respect of persons of category serving under A&N Administration.

5. He will have to serve in any part of A&N Islands as well as in mainland of India at reachable place or office of the A&N Administration exists.

Sd/
Asst. Director (Admn.)
(F.NO.2-44/69-95/Pt.v)"

[Signature]

His pay fixation statement was issued on 14.11.1995 on the basis of the same (annexed as continued A-5 to the OA).

(ii) Vide order No. 891 dated 27.5.2002, the applicant was promoted to the post of Section Holder (Machine) in the scale of pay of Rs. 4000-100-6000/- The order reads as follows:

ANDAMAN & NICOBAR ADMINISTRATION
DIRECTORATE OF IP&T

Port Blair, dated the 27 May, 2002.

ORDER NO. 891

On the recommendation of Departmental Promotion Committee, the Secretary (IP&T), A&N Administration has been pleased to promote Shri P. Gopal Rao, Automatic Machineman to the post of Section Holder (Machine) in the scale of pay of Rs. 4000-100-6000 on regular basis with immediate effect.

On his promotion, the pay of the above mentioned official shall be fixed under normal rules.

Sd/
Assistant Director (Admn.)
(F.No. 2-56/01-Ptv)

His pay fixation dated 17.06.02 was consequently issued based on the promotion order dated 27.05.02 (annexed as Annexure A-6 to the OA).

During oral submissions, Id. Counsel for the applicant drew our attention to an Office Memorandum dated 31.10.89 on the report of the Inter-Departmental Committee on Printing staff based on the recommendations of the 4th Central Pay Commission. In particular, Id. Counsel drew our attention to Paras 2, 3 & 4 of the same, as well as the table No.1 annexed thereto.

According to para 2 of the OM, Govt. of India decided to introduce the following pay structure for printing staff employed in various Govt. Presses under control of different Ministries/Departments:

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Sl. No	Classification of Post	Pay Scale (Rs.)
1.	Unskilled	750-940
2.	Semi-skilled	800-1150
3.	Skilled	950-1500
4.	Highly Skilled (Gd.II)	1200-1800
5.	Highly skilled (Gd. I)	1320-2040
6.	Master Craftsman	1400-2300
7.	Technical Supervisors	1400-2300 1600-2660 2000-3200

According to para 6 of the said OM, the application of appropriate pay scale according to classification of posts were accepted as follows:

S. No	Designation of post	Where it exists	Classification of the post	Present scale	Scale to be applied (Rs.)
1.	Assistant Mechanic	Defence	Skilled	950-1400	950-1500
2	Assistant Mechanic	Printing Dte		"	"
3	Distributor	"	"	"	"
4	Machine Assistant	"	"	"	"
5.	Machineman	NATMO		"	"
6.	Binder Grade II	Printing Dte.	"	"	"
7.	Binder Grade II	Defence	"	"	"
8.	Proof Pressman Grade I	Printing Dte.	"	"	"
9.	Metal Melter	"	"	"	"

It is seen from records and also as admitted by Id. Counsel for the applicant, that although the office memorandum was issued as early as on

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31.10.1989, the applicant did not challenge the promotion order dated 27.05.2002 or the consequent pay fixation order dated 17.06.2002 issued on the basis of the said promotion order. The representation of the applicant commenced from 14.01.2009 (Annexure A-11 to the OA) followed by that dated 24.03.10 and 24.11.2010 as well as a request for interview with Secretary (IP&T) dated 25.01.2011. In the meanwhile, the applicant had been promoted to the post of Foreman (Case Room) vide order dated 02.01.2007 (Annexure A-9 to the OA). The applicant has not referred to the O.M. dated 31.10.89 in any of his representations. The said O.M. dated 31.10.89 has not been made part of the pleadings except during the oral submissions of the Ld. Counsel for the applicant during the hearing. Hence any reference to an O.M. of 1989, made in 2018, is clearly an afterthought.

(iii) Ld. Counsel for the applicant, in support of his submissions, has cited a decision of the Ernakulam Bench in OA No. 181/00061/14 as ordered on 15.02.2016, wherein the DTP Operators working in Lakshadweep Government Press (LGP) had been allowed an Upgraded pay scale of Rs. 1400-2300/- at par with that of Govt. of India Press (GIP).

Upon a close examination of the said order, it is seen that post of DTP Operator ie the post of the applicant in OA 61 of 2014, had been reclassified as that of a Master Craftsman with scale of Rs. 1400-2300/- by the respondent administration. It is also noted in the said order that while closing C.P.No. 4/2014 and C.P.No.6/2014 in O.A No. 664/2013 and O.A No. 665/2013, the Tribunal had noted that the claim made by the petitioners for upgradation of their scale of pay has been accepted in principle by the respondents subject to the approval of the Ministry concerned. The Contempt Petition was closed on the basis of the said submission as recorded on behalf of the respondents. Hence the respondents being convinced on the claim of upgradation of pay scale and could not back off after making submissions in the said Contempt Petition.

Hence, the Ernakulam Bench accorded the upgraded pay scale to

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the DTP Operator (LGP) at par with that of GIP on the basis of reclassification as Master Craftsman in accordance with OM dated 31.10.1989 and also as per admission of the respondents in the Contempt Petition. This was subsequently made applicable to DTP Operator in Govt. Press, Port Blair vide orders dated 10.7.2017 consequent to Tribunal's directions dated 15.4.2016 in O.A. 84/AN/2012. In the case of the instant application, no reference was ever made to the OM dated 31.10.89 either by the applicant while representing before the respondent authorities nor in the pleadings. The OM was first referred to during the oral submissions made by the ~~Id~~ Counsel for the applicant during hearing.

Further, in the case of the DTP operator of LGP, as cited in OA 61/14 the respondents had consciously classified the post as a Master Craftsman and thereafter re-designated the same as a DTP Operator. In the instant case, no evidence has been furnished by the applicant to prove that there has been any such reclassification of the posts of Section Holder (Machine) and Foreman in Govt. Press, Port Blair according to the OM dated 31.10.89.

The Ernakulam Bench has, in their order dated 15. 02.2016, has also observed as follows

"5. In compliance of the order of Tribunal in O.A. 317/2011, the Ministry made a comparative study of technical posts of LGP with similar posts of Government of India Press and upgraded the posts of Machineman III/II, Block Maker, Dark Room, Attendant, Machine Attendant, Bindery Assistant, Foreman and Section Holder and bought them at par with Government of India Press with suitable amendment in the Recruitment Rules."

Hence, the recruitment rules had been amended by the Ministry to bring the technical posts of LGP at par with the Government of India Press (GIP). There is nothing on record to establish that any such amendment had been introduced in the case of Government Press, Port Blair with reference to the post of Section Holder (Machine) as well as that of the Foreman (Case room).

The analogy therefore ends here. The decision of the Ernakulam Bench

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cannot be extended in the context of this application when the respondent authorities have not neither reclassified nor designated the post of Section Holder (Machine) and Foreman (Case Room) in the context of the 4th CPC nor amended Recruitment Rules to bring them at par with Government of India Press.

(iv) Next we come to the issue on parity of pay as sought by the applicant. In this context we refer to a decision of the Hon'ble Supreme Court in the matter of **Union of India v. P.K. Roy** reported in AIR 1968 SC 850 wherein the Hon'ble Apex Court has laid down four factors to be determinative of the issue of equivalence of the post:

- "(i) The nature and duties of post;
- (ii) The responsibilities and powers exercised by the officer holding a post; the extent of territorial or other charge held or responsibilities discharged;
- (iii) The minimum qualifications, if any, prescribed for recruitment to the post;
- (iv) The salary of the post."

The applicant has not succeeded in establishing the criteria at (i), (ii) and (iii) above except for claiming parity with (iv).

We are also guided by a judgment passed by the Hon'ble Supreme Court in the matter of **Mewa Ram Kanojia v. All India Institute of Medical Sciences** reported in (1989) 2 SCC 235 wherein the Hon'ble Apex Court, while commenting on claims on equal pay, has held as under:

".....The Court's power in this regard is very limited and except for glaring discrimination owing to inequitable classification, the Court will exercise restraint. However, the burden to show that there exists a glaring disparity amounting to arbitrary action lies on the person who invokes judicial review and claims parity".

7. Hence, in our considered view, the applicant has not been able to establish

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the applicability of the O.M. dated 31.10.1989, the decision of Ernakulam Bench dated 15.2.2016, nor the justifiability of pay parity calling for any judicial review in this context.

8. Accordingly, the O.A. is dismissed on merits. Parties will bear their respective costs.

(Nandita Chatterjee)
Administrative Member

(V. Ajay Kumar)
Judicial Member

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