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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.899/2003

This the 6th day of April, 2004

HON'BLE SHRI V.K.MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

1. Sher Singh Chauhan S/O Ganga Ram Singh
2. D.C.Tongaria S/O Puran Chand Tongaria
3. M.S.Meshram S/O Shripati Meshram
4. Jagdish Prasad S/O Moji Ram
5. Sushila Sharma Wife of N.K.Sharma
6. Paramjit Singh S/O Parmatam Singh
7. K.S.Rathore S/O Jodh Singh
8. Mohinder Pal S/O Kedar Nath Sharma
9. Devinder Kumar S/O B.S.Nim
10. Ashok Sehgal S/O H.C.Sehgal
11. Shashi Bala D/O S.N.Aggarwal
12. Mohinder Pall S/O Punnu Ram
13. V.K.Savita S/O Bhaiya Lal Savita
14. Deep Kaur Wife of Shri Pal Singh
15. H.K.Sharma S/O Harbans Lal Sharma
16. A.K.Sharma S/O Madan Gopal Sharma
17. Rajinder Prasad S/O Chhaju Ram
18. Santosh Kumar S/O Hari Ram Nariani
19. Dhanranjan S/O H.Krishnan
20. Narender Singh S/O Nathu Singh
21. N.K.Awal S/O Hamam Das
22. A.K.Tangry S/O M.S.Tangry
23. A.K.Batra S/O Ram Chand Batra
24. Ramnik Chand S/O Pritam Chand

[All C/O Office of the Development
Commissioner (Handicrafts), West Block
No.7, R.K.Puram, New Delhi-110066]

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25. B.D.Gupta S/O K.L.Gupta

26. Bhairav Datt S/O Gopal Datt

[Both C/O Office of the Development
Commissioner (Handicrafts),
Northern Region, West Block No.8,
R.K.Puram, New Delhi] ... Applicants

(By Ms. Raman Oberoi, Advocate)

-versus-

1. The Secretary,
Ministry of Textiles, Udyog Bhawan,
New Delhi.

2. Development Commissioner (Handicrafts),
Ministry of Textiles,
West Block No.7, R.K.Puram,
New Delhi-110066.

3. Secretary,
Ministry of Finance,
Department of Expenditure,
North Block, New Delhi. ... Respondents

(By Shri K.R.Sachdeva, Advocate)

O R D E R

Hon'ble Shri V.K.Majotra, V.C.(A) :

Applicants, 26 in number, are working as Handicrafts Promotion Officers (HPO)/Assistant Directors (Handicrafts) [AD(H)] with respondent No.2. They are aggrieved that respondents have not removed the anomaly in their pay scales which had arisen due to implementation of the recommendations of the Fifth Central Pay commission (5th CPC) in respect of the post of Investigator. They have stated that while the 5th CPC did not consider upgradation of pay scales of HPO and AD(H) and advised the Ministry of Textiles to examine the feasibility of transferring these functions to the States and cooperative sectors so as to gainfully deploy the existing staff like the applicants in other activities, the respondents have not implemented the recommendations

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of the CPC and continued with their posts. Though the pay scale of the post of Investigator which forms the feeder grade for promotion to the posts held by the applicants was upscaled from Rs.1400-2300 to Rs.1600-2600 (pre-revised) [Rs.5000-8000 (revised)], the pay scales of the post of HPO and AD(H) remained pegged at Rs.1640-2900 (pre-revised) [Rs.5500-9000 (revised)] and Rs.2000-3500 (pre-revised) [Rs.6500-10500 (revised)], respectively, disturbing the vertical relativities of the inter-linked scales in the marketing cadre. Applicants have demanded revision of these pay scales to Rs.6500-10500 and Rs.8000-13000 respectively, as accorded to similar posts of Senior Economic Investigator etc. in the same Ministry or other Ministries, thereby creating a serious anomaly.

2. Respondents constituted a Departmental Anomalies Committee (DAC) for rectification of the anomaly arising in the pay scales of HPO and AD(H). The DAC further constituted a sub-group of DAC for settling the said anomaly. On 7.6.2000, the sub-group recommended upgradation of the pay scales of HPO and AD(H) in line with the 5th CPC's recommendations for similar posts in other Ministries. However, respondents have yet not acted upon the recommendations of the sub-group of the DAC. Applicants have sought direction to respondents to implement the recommendations dated 7.6.2000 of the sub-group of DAC for the posts of HPO and AD(H) from the pay scale of Rs.5500-9000 to Rs.6500-10500 and from Rs.6500-10500 to Rs.8000-13000 respectively w.e.f. 1.1.1996 with consequential benefits.

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3. The learned counsel of applicants stated that respondents set up a DAC in terms of the DOP&T office memorandum dated 6.2.1998 (Annexure A-2) to settle the anomalies in respect of the applicants arising out of the implementation of the 5th CPC's recommendations. The DAC in its meetings dated 3.5.2000 and 10.5.2000 formed an opinion that the case would have to be referred to National Anomalies Committee. The DAC set up a sub-group to evolve modalities for final consideration of the issue in dispute. This sub-group vide its meeting of 7.6.2000, in view of the upgradation of the pay scale of Investigator (scale Rs.5000-8000) recommended that the pay scale of HPO be upgraded from Rs.5500-9000 to Rs.6500-10500 and that of AD(H) from the existing scale of Rs.6500-10500 to Rs.7450-11500. This group had taken into consideration justifiable grounds such as gap between the pay scale of HPO and Investigator having been narrowed down from Rs.1000/- to Rs.500/-; the minimum educational qualification for HPO under direct recruitment being post-graduate, the 5th CPC having upgraded similar posts of HPO like Small Industries Promotion Officer, Senior Economic Investigator etc. in other Government departments from Rs.5500-9000 to Rs.6500-10500, and also to maintain vertical relativity between HPO and AD(H) on upgradation of HPO's scale to Rs.6500-10500 on the basis of the recommendations of the sub-group. The learned counsel stated that although the respondents had stated even in the Parliament that the anomaly in question is under consideration of the anomalies committee, they had not taken a final decision in the matter.

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4. On the other hand, the learned counsel of respondents contended that there is no anomaly in the pay scale of HPO and AD(H) due to implementation of the recommendations of the 5th CPC for the post of Investigator and that respondents are not bound to accept the recommendations of the sub-group of the anomalies committee. The learned counsel also denied that the cadre of investigators is the feeder cadre for HPO and then AD(H). He further supplemented on behalf of the respondents that there is no vertical anomaly in the cadre of Investigators, HPO and AD(H) as the cadre of Investigators and Statistical Assistants are placed under another service, namely, Subordinate Statistical Services with the Indian Statistical Services Cadre controlling authority and re-designated as Statistical Investigator Grade-II with minimum educational qualifications as graduation in statistics. The promotional channel of Statistical Investigator Grade-II would be Statistical Investigator Grade-I.

5. We have considered the rival contentions.

6. It is not in dispute that the 5th CPC had not recommended specific upscalation for the posts of HPO and AD(H). The 5th CPC had recommended a scale of Rs.5000-8000 for the post of Investigator which narrowed down the differential between the posts of Investigator on the one hand and HPO and AD(H) on the other. Respondents have set up the DAC to resolve the anomaly arising out of the implementation of the 5th CPC recommendations in respect of the post of Investigator

resulting in disturbance in the vertical relativity between the post of Investigator and the posts of HPO and AD(H). While the sub-group of the DAC has recommended upscalation of HPO and AD(H), the DAC and the Government have not taken any final view in the matter. The contention of respondents that the cadre of Investigators is not the feeder cadre for the posts of HPO and AD(H) is not acceptable. True, the 5th CPC had recommended in para 88.16 of its Report as follows :

"88.16 According to information made available to us, the value of handicrafts produced by the existing centres has increased substantially from only Rs.371 crores in 1961-62 to Rs.18,255 crores in 1993-94 and the value of their exports from Rs.28 crores to Rs.3360 crores. We are nevertheless of the view that it would be more appropriate if the responsibility for promoting handicrafts, the production of which is concentrated mostly in mofussil towns and villages, is left to the State Governments and the commercial aspects of their marketing entrusted to cooperative and private entities. We would, therefore, advise the Ministry to examine the feasibility of transferring these functions to the State and cooperative sectors and of gainfully deploying the existing staff in other activities. In any event, there appears to be no case whatsoever for further expansion of these centres."

However, respondents have not established that they had implemented the advise of the CPC in any manner by transferring the functions of the marketing centres to the State and cooperative sectors. Its functions and functionaries continue as before. As a matter of fact, as is established from Annexure A-19 dated 4.8.1999, the Government went ahead in setting up five more new Handicrafts Marketing and Service Extension Centres during the financial year 1999-2000 thereby expanding the

activities of these centres as also the number of posts of HPO and AD(H), among others. The contention of the respondents that the post of Investigator is not the feeder cadre for the post of HPO etc., is also contradicted by their orders Annexure A-20 dated 8.9.2000 and Annexure A-21 dated 4.10.2001 whereby several Investigators were promoted to the post of HPO. We also do not find any change in the "Office of the Development Commissioner (Handicrafts) Group 'B' Handicrafts Promotion Officers Recruitment (Amendment) Rules, 1990". Necessary changes would certainly have been made had the respondents implemented the advise of the 5th CPC regarding transfer of functions of the handicrafts marketing centres and their functionaries to the States and related cooperatives. All this goes to establish that the cadre of Investigators is still the feeder cadre for the post of HPO and AD(H) and anomaly does exist on account of implementation of the recommendations of the 5th CPC in respect of the post of Investigator which had disturbed the vertical relativity between the posts of Investigator and those of HPO and AD(H). We observe that an inordinate delay has been caused in formulating their recommendations by the DAC and decision making thereupon. We are conscious of our limitation that courts cannot interfere in matters of pay scales unless there is invidious distinction between similarly situated persons or arbitrariness. However, as we have observed above that an anomaly had arisen due to implementation of the recommendations of the 5th CPC in respect of the post of Investigator disturbing the vertical relativity in respect of the posts of HPO and AD(H), and the Government

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too having set up the DAC, we find that the respondents have caused an inordinate delay in settling the anomaly without any sound reasons. It is imperative ^{in the interest of justice} that the respondents should be called upon to take a final decision in respect of the grievance of the applicants by requiring the DAC to finalise its recommendations and also to take final decision in the matter within a period of three months from the date of communication of these orders.

7. Ordered accordingly. No costs.

S. Raju

(Shanker Raju)
Member (J)

V.K. Majotra

(V. K. Majotra)
Vice-Chairman (A)

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