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**CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH**

**Original Application No.2037/2003**

**New Delhi, this the 11<sup>th</sup> day of August, 2005**

**Hon'ble Mr. Justice V.S. Aggarwal, Chairman  
Hon'ble Mr. S.A.Singh, Member (A)**

1. Delhi, Andaman Nicobar Island Lakshadweep, Daman and Diu Dadra and Nagar Haveli Civil Services Association having their office at Hostel Block Directorate of Training UTCS, Vishwas Nagar Shahdara, Delhi.
2. Sh. Y.V.V.J.Rajasekhar  
47C, Ph-II, Pocket-B  
Mayur Vihar  
Delhi – 110 091. ... Applicants

**(By Advocate: Sh. G.D. Gupta with Sh. Vikrant Yadav)**

**Versus**

1. Govt. of NCT of Delhi  
Through its Chief Secretary  
Delhi Sachivalaya  
New Delhi.
2. Union of India through  
Secretary  
Ministry of Home Affairs  
New Delhi.
3. The Secretary  
Ministry of Personnel, Public Grievances  
and Pensions  
Department of Personnel and Training  
New Delhi.
4. The Lt. Governor  
Raj Bhavan  
Delhi. ... Respondents

**(By Advocate: Sh. S.K. Gupta)**

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## O R D E R

**By Mr. Justice V.S. Aggarwal:**

Applicant No.1 is an Association of Delhi, Andaman Nicobar Island Lakshadweep, Daman and Diu Dadra and Nagar Haveli Civil Services officers and Applicant No.2 is one of its members.

2. By virtue of the present application, the applicants seek a direction to Respondent No.1 to grant the scale of Rs.2200-4000 (Pre-revised) as recommended by Fifth Central Pay Commission and Cadre Review Committee as the initial pay scale instead of granting the same after four years of service with consequential benefits.

3. In this regard, they seek setting aside of the order of 10.4.2003, rejecting the claim of the applicants in this regard and further to set aside Rule 4(i) read with Schedule (1) of NCT, DANICS Rules, 2003 so far as it prescribes Rs.6500-10500 as the initial entry grade instead of allowing Rs.8,000-13500 as entry grade.

4. DANICS is a Civil Service Cadre of the Union Territories. It cater to the needs of the National Capital Territory of Delhi and other Union Territories of Andaman and Nicobar Islands, Lakshadweep, Daman and Diu and Dadra & Nagar Haveli. Its total strength is stated to be around 400. The posts in the said service are interspersed in certain grades to which we shall refer to hereinafter. Their promotional avenues from DANICS are to AGMUT Cadre of respective All India Services. The AGMUT Cadre

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comprises of two distinct categories for the purposes of feeder Services to the All India Service, namely, the participating States and Union Territories including N.C.T. of Delhi. The participating States are Arunachal Pradesh, Mizoram and Goa while the Union Territories, which we have already referred to above including the NCT of Delhi. The State Civil Service of all the constituent States have an entry scale of Rs.2200-4000 (PR). It is not in dispute that the entry scale of the DANICS is lower than the other States to which we have referred to above.

5. On an earlier occasion, the applicants had filed OA 2678/2002. The said application was disposed of on 10.10.2002 with a direction to consider the representation and claim of the applicants therein. Respondent No.1 had rejected the claim of the applicants vide the order of 10.4.2003, which reads:

“(b) That the Government, after taking into consideration all the relevant facts, inter-alia, arrived at the following decisions:-

(i) That it would not be prudent to upgrade the pay scale of Entry Grade officers of DANICS/DANIPS as it would amount to disturbing a well established horizontal and vertical relativity among various services thereby creating a anomalous situation in as much as the pay scale recommended at the entry scale of these two Group 'B' Services as the same as that allowed at the entry level of All India Services (IAS/IPS), to which the officers of DANICS/DANIPS are inducted subsequently, and the other Central Group 'A' Services.

Further, the service conditions of DANICS/DANIPS, which are services under the Union cannot be compared to the services under the States. In light of the above, there is a well established relativity, among various Group 'B'



Services to which the recruitment is being made through the Civil Service Examination on one hand and with other Group 'A' Services and All India Services to which the officers of DANICS/DANIPS are inducted subsequently.

(ii) To restructure the grade and pay scales for the four Services referred to above, with effect from 1<sup>st</sup> January, 1996 as under:-

(a)	on initial appointment	Rs.6500-10500
(b)	on completion of 4 years approved service	Rs.8000-13500
(c)	on completion of 8 years approved service	Rs.10000-15200
(d)	on completion of 13 years approved service	Rs.12000-16500
(e)	on completion of 18 years approved service	Rs.14300-18300

(iii) To operate the Entry Grades in the aforesaid Services in the scale of pay of Rs.6500-10500/- on initial appointment and Rs.8000-13,500/- on completion of four years approved service;

(iv) To classify the newly introduced pay scale of Rs.8,000-13,500/- as a Group 'B' scale; and

(v) To operate the grade in the scale of Rs.10000-15200 as a non-functional grade at 20% of the authorized strength of the Service as already provided for these Services, while to treat the new grade in the scale of pay of Rs.14300-18300 also as a non-functional grade within the Junior Administrative Grade to be operated at 10% of the sanctioned strength of these Services.

(c) That the grade and pay structure of the DANI Civil Service, to which the applicants belong, has been restructured to provide for five scales of pay in place of the three grades/scales of pay which existed prior to 1.1.1996. There has, therefore, been a substantial improvement in the pay and grade structure of this Service when compared to the position as it existed prior to 1.1.1996.

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(d) The Central Pay Commissions are only advisory bodies and in the matter of implementation of the recommendations made by the 5<sup>th</sup> Central Pay Commission, the Govt. took a conscious decision that the merits of the case demanded that its recommendations with regard to pay and grade structure of DANICS, DANIPS, Pondicherry Civil Service and Pondicherry Police Service be accepted only with certain modifications to ensure that the existing relativities are not disturbed. This stand was made explicit by the respondent Union of India in its Counter Affidavit filed in the CWP No.528/1999, ....."

6. The same has been rejected primarily on the ground that the upgradation of the pay scale of the entry grade officers of DANICS would disturb horizontal and vertical relativity amongst various services and create an anomalous situation and that administrative exigency did not call for modification in the decision that had already been taken.

7. At this stage, it is relevant to mention that Applicant No.1, even before the Fifth Central Pay Commission, had put up the said demand. The Fifth CPC did recommend the same entry grade, which is claimed now by the applicants. The recommendations in this regard read:

**"Demands:**

49.12 All the above mentioned four Services have demanded an entry grade of Rs.2200-4000 and standard Grades of pay upto Rs.4500-5700 on the pattern of most of the State Governments including the neighboring States who have already created such promotional avenues for their corresponding cadres. These services are feeder to the AGMUT cadre of the respective All India Services. The AGMUT cadre of AIS comprises of two distinct categories for the purposes of feeder Services to the AIS, namely the participating States and UTs including N.C.T. of Delhi. The participating states are

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Arunachal Pradesh, Mizoram and Goa while the Union Territories are Andaman & Nicobar Islands, Pondicherry, Chandigarh, Lakshadweep, Dadra & Nagar Haveli, Daman & Diu and N.C.T. of Delhi. The State Civil/Police Services of all three constituent States have an entry scale of Rs.2200-4000. The UT segment of AGMUT cadre has four distinct feeder Services, namely, the UT Civil Services, the Pondicherry Civil Service, the UT Police Service and the Pondicherry Police Service. The UT of Chandigarh is being manned by deputationist officers from the State Civil Services of Punjab and Haryana. In order to streamline the pay structure of the feeder Civil and Police Services, we recommended the entry grade of Rs.2200-4000 followed by the grades of Rs.3000-4500, Rs.3700-5000 and Rs.4500-5700 for these Services.

**Our recommendations: Pay Scales**

49.13 The introduction of a new grade necessitates some -restructuring of these cadres involving interspersing of existing posts among different grades of pay. We recommend the following revised uniform grade structure for these Services:

Grade		Scale of Pay	Eligibility of Functional Promotion
Grade Service	IV	Rs.2200-4000	Entry Grade
Grade Service	III	Rs.3000-4500	8 years of total service
Grade Service	II	Rs.3700-5000	13 years of total service
Grade I Service		Rs.4500-5700	18 years of total service"

8. To keep the sequence of events complete, we may further mention that the Lieutenant Governor of Delhi even had addressed a letter to the then Home Minister, who recommended the claim of

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the applicants, as claimed herein. The operative part of the same reads:

"I understand that officers of similar status in Arunachal Pradesh and Mizoram are already drawing the entry scale of Rs.2200-4000. Similarly, in Mizoram a 4<sup>th</sup> scale of Rs.4500-5700 has already been given to the State Civil Service Officers. Since Arunachal Pradesh and Mizoram are also constituents of the AGMUT Cadre of I.A.S./I.P.S. and the State Civil/Police Services of these States along with DANICS/DANIPS are feeder cadres for promotion to the AGMI Cadre the I.A.S./I.P.S. It seems only fair that the officers of DANICS alongwith the officers of DANIPS are also given the pay scales as recommended by the 5<sup>th</sup> Pay Commission.

I would also draw your attention to the fact that in the neighboring States of Punjab, Haryana, Himachal Pradesh and Rajasthan, the State Civil Service (Executive Branch) is a Class I Service while also being a feeder cadre for eventual selection into the All India Service i.e. I.A.S. Besides, the nature of field duties undertaken by DANICS/DANIPS officers is both stressful and onerous and deserves to be appropriately recognized and compensated.

I shall, therefore, be grateful for an immediate favourable decision in the matter by the Government of India."

9. The applicants further contend that the matter had been considered at different Government levels and the Department of Expenditure had even observed:

"The question of relativities between various categories of employees has been considered at length by the Commission and its recommendations on pay scales are based on a detailed and through examination of all the issues involved including minimum qualification required, nature of duties and responsibilities, current relativities etc. Apart from thousands



of representations and memoranda received from all quarters, the Commission gave personal hearings to all major associations, unions service interests, Armed Forces representatives, Police representatives, etc. It also solicited the view of all Ministries and Departments in regard to their employees. The Commission also employed professional and knowledgeable consultants to arrive at informed conclusions"

The Government cannot have different yardsticks for different times, it also shows malafide towards DANIC Services."

10. It is on the strength of these broad facts that the applicants claim that they are entitled to the reliefs referred to above, because according to them, the Expert Body like the Pay Commission had already approved of the said entry grade scale. The other States to which we have referred to above are also giving the same entry grade scale as claimed by the applicants besides State of Punjab and Haryana. It is claimed further that the persons who are in DANICS Service do more arduous duties than certain corresponding officers in different States. They cannot be discriminated and in fact, denial of the said scale to the applicants amounts to hostile discrimination. The averments were controverted on behalf of the respondents.

11. The legal position in this regard is not a subject matter of dispute. In fact, as the years rolled by, the law has stabilized.

12. The Supreme Court has, more often than once, held that this is a fact which falls within the domain of the Expert Body and unless there is hostile discrimination, the Court/Tribunal should not interfere. The quality of work performed by different sets of persons holding different jobs will have to be evaluated. This was

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highlighted by the Supreme Court in the case of **STATE OF HARYANA & OTHERS v. JASMER SINGH & ORS.**, JT 1996(10) SC 876.

In the cited case, persons working on daily wages were granted the same scales with those holding regular posts on principle of 'equal pay for equal work'. The decision of the **Punjab and Haryana High Court** was set aside and it was held:

"8. It is, therefore, clear that the quality of work performed by different sets of persons holding different jobs will have to be evaluated. There may be differences in educational or technical qualifications which may have a bearing on the skills which the holders bring to their job although the designation of the job may be the same. There may also be other considerations which have relevance to efficiency in service which may justify differences in pay-scales on the basis of criteria such as experience and seniority, or a need to prevent stagnation in the cadre, so that good performance can be elicited from persons who have reached the top of the pay scale. There may be various other similar considerations which may have a bearing on efficient performance in a job. This Court has repeatedly observed that evaluation of such jobs for the purposes of pay-scale must be left to expert bodies and, unless there are any mala fides, its evaluation should be accepted."

13. Similarly, in the case of **SHYAM BABU VERMA AND OTHERS v. UNION OF INDIA AND OTHERS**, (1994) 2 SCC 521, the Supreme Court held that the nature of work may be more or less the same but scale of pay may vary based on academic qualification or experience which justifies classification. The findings of the Supreme Court are:

"The nature of work may be more or less the same but scale of pay may vary based on academic qualification or experience which justifies classification. The principle of 'equal pay for equal work' should not be applied in a

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mechanical or casual manner. Classification made by a body of experts after full study and analysis of the work should not be disturbed except for strong reasons which indicate the classification made to be unreasonable. Inequality of the men in different groups excludes applicability of the principle of 'equal pay for equal work' to them. The principle of 'equal pay for equal work' has been examined in State of M.P. v. Pramod Bhartiya [(1993) 1 SCC 539] by this Court. Before any direction is issued by the Court, the claimants have to establish that there was no reasonable basis to treat them separately in matters of payment of wages or salary. Then only it can be held that there has been a discrimination, within the meaning of Article 14 of the Constitution."

14. In the case of **UNION OF INDIA AND OTHERS** v.

**PRADIP KUMAR DEY**, 2001 SCC (L&S) 56, the Supreme Court held that for applying the principle of 'equal pay for equal work', there should be sufficient material before the Court for comparison. In absence of the same, the Court should not interfere and the petition as such could not have been so allowed. It was reiterated that it was the function of the Government which normally acts on the recommendations of the Pay Commission. Change of pay scale of a category has a cascading effect.

15. Similarly, in the case of **STATE BANK OF INDIA & ANR.**

v. **M.R. GANESH BABU & ORS.**, JT 2002 (4) SC 129, the Supreme Court held that functions may be same but responsibilities make a difference. One cannot deny that often the difference is a matter of degree. The Supreme Court held:

"16. The principle of equal pay for equal work has been considered and applied in many reported decisions of this Court. The principle has been adequately explained and crystallised and sufficiently reiterated in a catena of

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decisions of this Court. It is well settled that equal pay must depend upon the nature of work done. It cannot be judged by the mere volume of work, there may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities make a difference. One cannot deny that often the difference is a matter of degree and that there is an element of value judgment by those who are charged with the administration in fixing the scales of pay and other conditions of service. So long as such value judgement is made bona fide, reasonably on an intelligible criterion which has a rational nexus with the object of differentiation, such differentiation will not amount to discrimination. The principle is not always easy to apply as there are inherent difficulties in comparing and evaluating the work done by different persons in different organizations, or even in the same organization. Differentiation in pay scales of persons holding same posts and performing similar work on the basis of difference in the degree of responsibility, reliability and confidentiality would be a valid differentiation. The judgment of administrative authorities concerning the responsibilities which attach to the post, and the degree of reliability expected of an incumbent, would be a value judgement of the authorities concerned which, if arrived at bona fide, reasonably and rationally, was not open to interference by the court."

16. Before proceeding further, we must make it clear that there was little dispute about equal responsibilities of similar Civil Servants of the State but the basic question that comes up for consideration would be as to if this Tribunal is competent to grant the relief on the ground that Pay Commission had recommended the same and that there is a hostile discrimination qua the applicants.

17. As pointed above, certain constituent States of AGMUT have granted the same entry scale as claimed by the applicants.

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So far as the applicants are concerned, the entry scale is lower but after four years, they are given the said scale. It must be stated that the said States have granted the scale because they are competent to fix their scales to State Civil Service. Since the States are competent to fix the scales of their Civil Servants, keeping in view the facts and circumstances existing in each State, in our considered opinion, that cannot be the ground to grant the scale to the applicants.

18. In the federal set up in the Republic of India, when certain rights are conferred, States indeed can, on basis of their resources and other facts, grant the said scale. This cannot be taken as a ground to maintain parity because other-wise this would tantamount to declaration by this Tribunal that all State Civil Services must have a same scale. Simply because some of the constituent States are considering the said Entry Grade, DANICS persons cannot be taken as good ground in this regard.

19. It is true that the Pay Commission is an Expert Body. We do not dispute that all the facts are considered by the Pay Commissions. But at best, it would be a recommendation. The same cannot be stated to be binding. If there are cogent and valid reasons, the recommendations can be rejected. Unless there is a hostile discrimination, this Tribunal would not interfere.

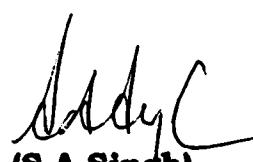
20. In normal circumstances, entry grade into DANICS is through Civil Services Examination. Ordinarily they rank below the Group 'A' Services on merits. There are certain promotions also effected from other ranks. Therefore, the said services cannot

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claim the same entry grade, which may be available to All India Services Group 'A'.

21. It is true that Fifth Central Pay Commission had recommended the restructuring of the cadre and further that it will not disturb the horizontal and vertical relativity amongst various Services. In the impugned order, the same has again been reiterated. In our considered opinion, keeping in view that the applicants belong to a Group 'B' Service, the said recommendation of the Pay Commission, on that basis, can hardly be stated to be one which could be accepted. In this view of the matter, in our considered opinion, there is little scope for interference by this Tribunal. It cannot be stated that the applicants are subjected to hostile discrimination.

22. Resultantly, the Original Application being without merit must fail and is accordingly dismissed.

  
(S.A. Singh)

Member (A)

  
(V.S. Aggarwal)

Chairman

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