

Central Administrative Tribunal
Principal Bench

O.A. No.73/2003
With
O.A. No.656/2003

(19)

New Delhi this the 28th day of January, 2005

Hon'ble Shri V.K. Majotra, Vice Chairman (A)
Hon'ble Shri Shanker Raju, Member (J)

OA-73/2003

1. V. Chandrasekhar
S/o Late Shri K. Kanari
A-95, Shivalik, Malviya Nagar
New Delhi.

2. Mahendra Singh
S/o Shri B.P. Singh
1/4383-D, Ram Nagar Ext
Mandoli Road, Shahdara
New Delhi.

-Applicant

(By Advocate: Shri Deepak Verma)

Versus

1. Union of India through
The Secretary,
Ministry of Social Justice & Empowerment (SJ&E)
Government of India, Shastri Bhawan,
New Delhi

2. The Secretary
Ministry of Finance
Department of Expenditure
Government of India, North Block,
New Delhi.

-Respondents

(By Advocate: Shri R.N. Singh)

OA-656/2003

1. Avtar Singh
S/o Late Shri Rizak Ram,
162, Maidan Garhi,
New Delhi-110068.

2. H.S. Chadha,
S/o Late Shri M.S. Chadha,
Flat No. 33, Samaj Kalyan Apartment,
Vikaspuri, New Delhi-110018.

-Applicants

(By Advocate: Shri Deepak Verma)

Versus

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The Secretary,
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(20)

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Government of India, North Block,
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-Respondents

(By Advocate: Shri R.N. Singh)

ORDER (Oral)

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

The facts and issues involved in these OAs being identical, they are being disposed of by a common order.

2. In both cases, respondents had failed to file their reply to the amended OAs despite several opportunities having been granted to them. Accordingly, respondents' right to file the reply was forfeited on 7.12.2004. However, learned counsel of respondents was permitted to argue the cases during the final hearing on 28.1.2005.

3. Through these OAs, applicants have challenged Annexure-A-1 (a) dated 4.8.2003 to the extent that respondents have upgraded the scale of pay attached to the post of Investigators in the Scheduled Caste Development Division of the Ministry of Social Justice & Empowerment (SJ&E) from Rs.4500-125-7000 to Rs.5000-150-
and 1b
8000 notionally with effect from 1.1.1996, with actual benefits with effect from 23.7.2003. It is claimed that respondents ought to have upgraded the scale of pay of Investigators with effect from 1.1.1996. Referring to Annexure A-1 dated 20.8.2002, learned counsel of applicants pointed out that applicants had been denied the higher scale on the grounds that (a) all posts of Investigators are not filled by direct recruitment and that (b) some of the existing relativities are likely to be adversely affected on account of upgradation. Learned counsel pointed out that recognizing the anomaly, respondents have upgraded the pay scale but not with effect from 1.1.1996. Learned counsel stated that applicants have been discriminated against in the sense that vide Annexure-I (b) dated 4.8.2003 anomaly of Statistical Assistants in the same Ministry has been removed by upgrading the pay scale from 4500-7000 to Rs.5000-8000 with effect from 1.1.1996 instead of prospectively as in the case of the applicants.

4. Learned counsel supplemented that the anomalies in the scales of pay in various grades of the Ministry of SJ&E consequent upon fifth Central Pay Commission's recommendations were considered by the Departmental Anomaly Committee (DAC) which had made recommendations for removal of anomalies in various grades including that relating to the category of the applicants w.e.f. 1.1.1996. However, without assigning any reasons, respondents have removed the anomaly in the case of Statistical Assistants w.e.f. 1.1.1996 but in the case of the applicants as Investigators notionally w.e.f. 1.1.1996 with actual benefits from 23.7.2003.

5. Learned counsel contended that applicants are Investigators in the Ministry of SJ&E and had been enjoying absolute parity till 1.1.1996 with Investigators of the National Commission for SCs/STs under the same Ministry. Both categories are governed by the same Recruitment Rules with entry level qualification of post graduate degree and also discharging the same duties, functions and responsibilities. However, while the Investigators working in the National Commission for SCs/STs were placed in the scale of Rs.5000-8000 on the recommendations of the V CPC w.e.f. 1.1.1996, applicants were kept in the lower scale of Rs.4500-7000. The alleged anomaly in the scale of pay was recognized by the Ministry by constituting a DAC, which made the following recommendations for different categories of decisions:-

“3.1 The incumbents of the grade of Investigator and Research Investigator be given upgraded replacement scale of pay of Rs.1640-2900 (pre-revised) keeping in view of the entry level qualification for the posts which is a post graduate degree. The Committee felt that by doing so the anomaly between the scales of pay of Investigators and Research Investigators would be duly settled and this would bring them at par with the incumbents of the National Commission for SCs/STs.

3.2 The incumbents of the grade of Senior Investigator and Senior Research Investigator be given upgraded replacement scale of pay of Rs.2000-3500 (pre-revised) keeping in view of the entry level qualification for the posts which is a post graduate degree. The Committee felt that by doing so the anomaly between the scales of pay of Senior Investigators and Senior Research Investigators would be duly settled and this would bring them at par with the incumbents of the National Committee for SCs/STs.

3.3 The incumbents of the grade of Statistical Assistant be given the upgraded replacement scale of pay of Rs.1640-2900 (pre-revised).

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3.4 The incumbents of the grade of Artist be given the upgraded replacement scale of pay of Rs.5000-8000.

4. These recommendations would take effect from 1.1.96".

6. The respondents implemented the recommendations of the DAC in toto in respect of Statistical Assistants but partially in the case of Investigators inasmuch as the upgraded scale of Rs.5000-8000 was given to the Investigators notionally from 1.1.1996 and with actual benefits from 23.7.2003. Learned counsel contended that when the entry level qualifications of Investigators in the Ministry of SJ&E and National Commission for SCs/STs as also the duties and functions of Investigators in both organizations are the same, the applicants should not be discriminated against and ought to have been given the upgradation w.e.f. 1.1.1996 as recommended by the DAC.

7. Learned counsel of respondents referring to respondents' reply to the unamended OA stated that the Central Pay Commission had not given any specific recommendation for the post of Investigators in the Ministry of SJ&E and as such they were continued in the pre-revised scale of Rs.1400-2300 and were placed in the corresponding revised scales of Rs.4500-7000 w.e.f. 1.1.1996. Learned counsel further stated that respondents had not provided upgraded pay scale of Rs.5000-8000 to the applicants as the post of Investigator is not filled by direct recruitment as also some of the existing relativities are likely to be adversely affected on account of this upgradation. However, the MSJ&E was able to convince the Department of Expenditure that the existing relativities would not be upset by the proposed pay upgradation. ^{lh} Yet, the Department of Expenditure agreed to upgradation of the post of Investigator in the pay scale of Rs.5000-8000 notionally w.e.f. 1.1.1996 with actual payments being made only with prospective effect.

8. We have considered the rival contentions as also the material on record.

9. Respondents have agreed, as stated above, that upgradation would not upset the existing relativities. It has also not been denied that the entry level qualifications, duties, functions and responsibilities of the posts of Investigators in the Ministry of SJ&E and National Commission for SCs/STs are the same. In this backdrop, there is no justification for the respondents to deny application of the

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upgraded pay scale of Rs.5000-8000 to the applicants w.e.f. 1.1.1996 as recommended by the DAC. If the reasons for denial of upgradation do not exist for granting the upgraded pay scale from 23.7.2003, they will be absent even ~~for~~ ⁶⁶ grant of such pay scale from 1.1.1996. When the respondents have accepted recommendations of DAC in toto in respect of the Statistical Assistants, there is no reason why similar recommendations based on similar reasons are not accepted in the case of Investigators.

10. It may be supplemented that National Commission for SCs/STs and Division in which the applicants worked are under the same Ministry. Investigators in both organisations have the same duties, functions and responsibilities. As such, both categories perform equal work. Applicants who perform equal work cannot be denied equal pay as allowed in the case of Investigators in National Commission for SC/ST. The established law is unambiguous that equal pay for equal work is implicit of doctrine of equality enshrined under Article-14 of the Constitution of India. Denial of the same pay scale to the applicants as to Investigators of National Commission for SC/ST is irrational and unreasonable.

11. Having regard to the facts and circumstances of the case as also discussion made above, these OAs have substantial merit. Accordingly, they are disposed of as allowed, directing the respondents to consider modifying Annexure A-1 (a) dated 4.8.2003 upgrading the scale of pay attached to the post of Investigators in Scheduled Castes Development Division of the Ministry of Social Justice and Empowerment from Rs.4500-125-7000 to Rs.5000-150-8000 w.e.f. 1.1.1996 with all consequential benefits. No costs.

12. Let a copy of this order be placed in OA-656/2003.

S. Raju

(Shanker Raju)
Member (J)

V.K. Majotra

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

28.1.05

cc.

Note: Please see Order dt: 15-12-2005.
Pay Scale of Rs.5000-8000 to be read
as "Rs.5500-9000", as per Order
dated 15-12-2005 in m.o. No. 1037/2005
in O.A.No. 73/2003.

Ar. 22/12/05
Dy. Regr. (S)