
(1999) 07 SHI CK 0013
In the High Court Of Himachal Pradesh
Case No : C.W.P. No. 430 of 1996

All India General Insurance Employees" Association	APPELLANT
Vs	
General Insurance Corporation of India	RESPONDENT

Date of Decision : 02-07-1999

Acts Referred:

Constitution of India, 1950 — Article 14
General Insurance Business (Nationalisation) Act, 1972 — Section 16, 17A

Citation : (2000) 2 LLJ 167 : (1999) 2 ShimLC 503

Hon'ble Judges : Lokeshwar Singh Panta, J; Kamlesh Sharma, J

Bench : Division Bench

Advocate : Rajiv Sharma, for the Appellant; Ashwani Sharma, for the Respondent

Final Decision : Dismissed

Judgement

Kamlesh Sharma, J.—The above writ petition has been filed by an Association of the employees of the General Insurance Corporation. The precise grievance raised in the writ petition is that the employees of the Insurance Companies stationed at Palampur, District Kangra have not been given Special Area Allowance like the employees of Central Government stationed at Palampur despite their repeated representation, as such, they have been discriminated against. The petitioner has placed on record office memorandum dated September 23, 1986 (Annexure P-1) whereby Special Compensatory (Remote Locality) Allowance was granted to the employees of Central Government posted in various areas of Himachal Pradesh stated therein, which included Shimla town and its suburbs (Mashobra, Dhalli, Taradevi, Kasumpti, Jatog and Tutu), which was further amended by office memorandum dated May 31, 1991 (Annexure P-2) whereby Central Government employees posted at Palampur town including HPKV Campus at Palampur and offices located outside Municipal limit but allocated to certain offices stated therein were also granted Special Compensatory (Remote Locality) Allowance. As the employees of Insurance Companies stationed at Palampur were not granted Special Area Allowance, they

through the petitioner Association made various representations dated September 25, 1992, July 8, 1993, June 6, 1995, June 21, 1995, June 27, 1995 and September 1, 1995 (Annexures P-4 to P-9 respectively) but with no results. The petitioner also gave legal notice dated October 10, 1995 (Annexure P-13) through their counsel. The petitioner has also placed on record the copies of orders of Central Administrative Tribunal, Chandigarh Bench, Circuit Bench at Shimla (Annexures P-10 and P-11) whereby directions were issued to the Central Government to grant Special Compensatory (Remote Locality) Allowance to the Telecom and Postal employees of the Central Government stationed at Palampur at the rate the said allowance was being paid to the Telecom and postal employees " stationed at Shimla.

2. The stand taken by the respondent in its reply filed on the affidavit dated April 9, 1997 of its the then Deputy Manager, is that the Government of India Memorandum dated September 23, 1986 and May 31, 1991 (Annexures P-1 and P-2) regarding the grant of Special Compensatory (Remote Locality) Allowance were not applicable ipso facto to the employees of the Insurance Companies. It is further stated that the terms and conditions with regard to the pay scales and other allowances of the employees of subsidiaries of General Insurance Corporation of India are governed by various schemes and are not comparable with those of Central Government employees. In general, the Insurance Companies have been following the pattern of allowances as applicable to other Financial Institutions like Life Insurance Corporation of India and the Banks, whose employees posted at Palampur are not being paid Special Area Allowance. It is also emphasized that the terms and conditions with regard to the pay scales and other allowances of employees of the General Insurance Corporation are not *pari passu* with those of the Central Government employees, as such, the claim of the petitioner is without any substance.

3. In the supplementary affidavit dated March 13, 1999, filed by the then Deputy Manager of the respondent Corporation, it is stated that the respondent Corporation has four subsidiary companies i.e. Oriental Insurance Co. Ltd., National Insurance Co. Ltd., New India Assurance Co. Ltd. and United India Insurance Co. Ltd., which are independent legal entities constituted under the Companies Act as per Section 9 of the General Insurance Business (Nationalisation) Act, 1972 (hereinafter called as "the Act") read with Section 617 of the Companies Act. The General Insurance Corporation of India and its four subsidiaries have their own separate Board, Memorandum and Articles of Association. The Special Area Allowance for the employees of General Insurance industry at various places is being given after obtaining approval of the Board of General Insurance Corporation of India. For this purpose, the General Insurance Corporation is adopting the pattern of the banks and the Life Insurance Corporation of India. It is further stated that the General Insurance Corporation of India had taken up the matter with the Ministry of Finance, Government of India for revision of Special Area Allowance to its employees vide letter dated December 27, 1991 (Annexure R-3) and the ministry had advised it to sort out

the matter in consultation with the Life Insurance Corporation of India and Employees' Associations. However, after negotiations Government of India vide Notification dated March 10, 1992 (Annexure R-2) specified the places and rates for Special Area Allowances applicable to the employees of the Life Insurance Corporation and on the same pattern the Board of the respondent Corporation approved such allowances for employees of General Insurance Industry. A copy of the note for Board submitted by the respondent Corporation for meeting dated March 30, 1992 alongwith extract copy of relevant Board Minutes are placed on record as Annexures R-4 and R-5. It is further clarified that the salaries and such other terms and conditions of service of the employees of the respondent Corporation and its subsidiaries are generally notified by the Government of India under its statutory power provided under Sections 16 and 17(A) of the Act through amendments to the Rationalisation Scheme for supervisory and subordinate staff, but since the Special Area Allowance is not covered under the scheme, it is granted after approval from the Board on the same lines as is being paid by the Life Insurance Corporation. Referring to Para 24 of the Rationalisation Scheme, which provides that "No employee shall be entitled to any benefit not arising out of this scheme or any scheme which may be formed by the Corporation or Company", it is pointed out that the respondent-Corporation and its subsidiary companies are entitled to frame schemes granting benefits to the employees. It is further stressed that there is absolutely no discrimination or arbitrariness on the part of the respondent Corporation and its subsidiary companies in not allowing Special Area Allowance to its employees at Palampur vis-a-vis comparable institutions of Banks and Life Insurance Corporation etc. Lastly, it is submitted that the employees of the respondent Corporation and its subsidiaries posted at Palampur cannot be compared with the employees of the Central Government to allege discrimination.

4. We have heard learned counsel for the parties and gone through the record. In view of the above referred categorical stand of the respondent Corporation we do not find any substance in the submission of the learned counsel made on behalf of the petitioner that the employees of the Insurance Companies stationed at Palampur are discriminated against by not granting them Special Area Allowance as granted to either their counterparts at Shimla or the employees of the Central Government stationed at Palampur. By no stretch of imagination the employees of the Insurance Companies stationed at Palampur are comparable to the employees of the Central Government stationed at Palampur. The salaries and such other terms and conditions of the service of the employees of the respondent Corporation and its subsidiaries are governed by the Schemes prepared under Sections 16 and 17(A) of the Act, which do not provide for grant of Special Area Allowance. However, it has been granted after approval from the Government on the same lines as is being granted by the Life Insurance Corporation, a comparable institution. There is also no material on record to substantiate that the employees of the Insurance Companies posted at Shimla and at Palampur are so similarly situated as to hold that there is no intelligible

differentia to distinguish between them for the purpose of grant of Special Area Allowance. Above all, it is well settled that this Court in the exercise of extraordinary jurisdiction should not interfere in the matter of fixation of pay-scales and grant of allowances unless a clear case of hostile discrimination is made out. In this regard the following observations of the learned Judges of the Supreme Court made in Para 5 of the judgment in Union of India (UOI) and Another Vs. P.V. Hariharan and Another, are relevant:-

"5. Before parting with this appeal, we feel impelled to make a few observations. Over the past few weeks, we have come across several matters decided by Administrative Tribunals on the question of pay scales. We have noticed that quite often the Tribunals are interfering with pay scales without proper reasons and without being conscious of the fact that fixation of pay is not their function, It is the function of the Government which normally acts on the recommendations of a Pay Commission. Change of pay scale of a category has a cascading effect. Several other categories similarly, situated, as well as those situated above and below, put forward their claims on the basis of such change. The Tribunal should realise that interfering with the prescribed pay scales is a serious matter. The Pay Commission, which goes into the problem at great depth and happens to have a full picture before it, is the proper authority to decide upon this issue. Very often, the doctrine of "equal pay for equal work" is also being misunderstood and misapplied, freely revising and enhancing the pay scales across the Board. We hope and trust that th Tribunals will exercise due restraint in the matter. Unless a clear case of hostile discrimination is made out, there would be no justification for interfering with the fixation of pay scales"

5. Learned counsel for the petitioner has referred to the judgments of the Supreme Court in Kumari Shrilekha Vidyarthi and Others Vs. State of U.P. and Others, ; CFFP Employees Association (Attuc) and Anr. v. Chairman and Managing Director and Ors.; CFFP Employees Association (Attuc) and Anr. v. Chairman and Managing Director and Ors. . State of Maharashtra Vs. Manubhai Pragaji Vashi and others, ; M.J. Sivani and Others Vs. State of Karnataka and Others, and Krishnan Kakkanth Vs. Government of Kerala and ohters, to urge that grant of Special Area Allowance to the employees of the Insurance Companies stationed at Shimla and refusal thereof to their counterparts stationed at Palampur is arbitrary and violative of Article 14 of the Constitution. We do not find any substance in this submission as the observations made in these judgments in respect of the scope of judicial review are in the context of the facts of each case. The ratio of these judgments have no application to the facts and circumstances of the case in hand as discussed above. In fact, grant of Special Area Allowance to the employees of the Insurance Companies at Shimla and various other places in Himachal Pradesh and not at Palampur is a matter of policy decided by the respondent Corporation and unless it is demonstrably arbitrary, capricious, irrational, discriminatory or violative of constitutional or statutory provisions, it cannot be struck down by Court as held in Krishnan Kakkanth v. Government of Kerala and Ors. (supra).

6. The result of above discussion is that there is no merit in this writ petition and it is rejected. There is no order as to costs.