

(2016) 04 DEL CK 0156
In the Delhi High Court
Case No : W.P.(C) 12110 of 2015

Chandan Singh and Others

APPELLANT

Vs

Union of India and Another

RESPONDENT

Date of Decision : 26-04-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 230 DLT 1

Hon'ble Judges : Sanjiv Khanna and Najmi Waziri, JJ.

Bench : Division Bench

Advocate : Mr. Ashish Nischal and Mr. Arun Nischal, Advocates, for the Appellant; Mr. G.C. George, CGSC with Mr. Suresh C. Sati, Advocates and Mr. Anuj Aggarwal, ASC, for the Respondent

Final Decision : Dismissed

Judgement

Sanjiv Khanna, J. (Oral) - Mr. Chandan Singh, Mr. Gautam and Mr. Amit Kumar, by this writ petition impugn the order dated 08.10.2015 passed by the Central Administrative Tribunal, Principal Bench in OA No. 3288/2012, whereby their prayer for grant of pay-scale in Pay Band-II (Rs. 9300- 34800) with grade pay of Rs. 4200, has been rejected.

2. The petitioners herein are working as Assistant Sub-Inspectors (Shorthand Reporters/Hindi) in the Delhi Police. These posts, four in number, were created and sanctioned on 26.12.1970 for the Special Branch of the Delhi Police.

3. The petitioners after the 5th Pay Commission were given pay-scale of Rs. 4500-7000. After the 6th Pay Commission, they were given corresponding/ replacement pay-scale in Pay Band-I (Rs. 5200-20200) with grade pay of Rs. 2000/-.

4. The petitioners claim parity and equivalence with Assistant Sub-Inspector/ Stenographers, who before the 6th Pay Commission were also in the pay-scale of Rs. 4500-7000, but on the basis of the recommendations of the 6th Pay

Commission were granted replacement pay-scale in Pay Band-II (Rs. 9300-34800) with grade pay of Rs. 4200. It is highlighted that since the date of appointment and sanction of posts of Shorthand Reporters/Hindi, the petitioners, and those appointed as Assistant Sub-Inspectors/stenographers, were given the same and identical pay-scale. This historical parity was negated and disturbed when the 6th Pay Commission's recommendations were implemented. Reliance is placed on decision of this court dated 14.10.2014 in WP(C) No. 4606/2013, titled: D.G.O.F. Employees Association and Anr. v. Union of India & Ors.

5. We have considered the said contentions, but are unable to accept the submissions and pleas raised. The Tribunal in the impugned order has noticed the manner in which the posts of Shorthand Reporters/Stenographers was created vide order dated 26.12.1970 for the Special Branch of the Delhi Police. The said order specifically records that like other stenographers in the Delhi Police, Shorthand Reporters/Stenographers should be conferred the rank of Assistant Sub-Inspector as and when their pay reaches a stage of Rs. 168, i.e., the minimum of Sub-Inspectors' pay. It is an admitted position that the qualifications for the posts of Shorthand Reporters/Hindi and Stenographers remained the same till 1993. Thereafter, the educational eligibility requirements for the post of Assistant Sub-Inspector (Stenographers) was raised and increased. The educational qualifications and professional qualifications of the two posts, as noted in the impugned order and as per the recruitment rules, are as under:

Post

Educational

Qualification

Professional

Qualification

Asstt.

Sub-Inspector (Shorthand Reporter)

Higher Secondary

equivalent or

Shorthand/Typing

speed in 80 wpm/25 wpm

Asstt.

Sub-Inspector (Stenographers)

Graduate from a

recognised University of equivalent.

Shorthand/Typing

speed English ? 80/40 w.p.m. Hindi ? 80/30 wpm

Thus, for appointment to the post of Asstt. Sub-Inspector (Stenographers), the minimum requirement is graduation with shorthand/typing speed 80/40 words per minute in English or 80/30 words per minute in Hindi. For the purpose of Shorthand Reporter/Hindi, the essential educational requirement, as noticed above, is higher secondary and the shorthand/typing speed requirement in Hindi is 80/25 words per minute. There is not only a difference in the educational qualifications but also in the skill level. This is the primary reason as to why the writ petition should be rejected.

6. At this stage, we would dwell on how and why the pay difference had arisen and deal with other submissions. As a result of the 6th Pay Commission's recommendations the Stenographer's grade of Rs. 5000- 8000 was upgraded to the scale of Rs. 6500-10500. Resultantly, the stenographers have now been placed in Pay Band-II of Rs. 9300-38400 with grade pay of Rs. 4200. The earlier hierarchy of pay-scales in the Stenographers' cadre was Rs. 5000-8000, 5500-9000 and 6500-10500. The 6th Pay Commission had granted up gradation by two stages and consequent placement in the pay-scale of Rs. 6500-10500 and replacement pay-scale in PB-II with grade pay of Rs. 4200. It is submitted that Stenographers in the pay-scale of Rs. 4500-7000 were also given benefit of merger and granted pay-scale of Rs. 6500-10500 (pre-revised) or PB-II of Rs. 9300-34800 and grade pay of Rs. 4200 (revised).

7. This submission may be correct, but the argument again conspicuously overlooks the factum that the educational qualifications required for the post of Shorthand Reporters/Hindi is mere higher secondary or equivalent, whereas educational qualification prescribed for the post of Stenographers is graduation from a recognised university or equivalent. The skill levels prescribed in the recruitment rules is also lower. We do not think, in these circumstances, the petitioners can claim that they are entitled to up gradation or pay parity with the Asstt. Sub-Inspectors/stenographers. The historical parity was disturbed in the year 1993 when the educational qualifications were raised for Asstt. Sub-Inspector (Stenographers). This aspect became important and relevant when it was decided by the 6th Pay Commission that the payscales of the Stenographers cadre should be upgraded by two grades from Rs. 5000-8000 to Rs. 6500-10500 (pre-revised) or consequently when Pay Band-II of Rs. 9300-34800 with grade pay of Rs. 4200 became payable after the 6th Pay Commission.

8. For the aforesaid reasons, the decision in the case of D.G.O.F. Employees Association and Anr. v. Union of India & Ors. (Supra) would not be applicable. The said decision refers to and holds that the principle of equal pay for equal work means parity in pay-scale only when there is identity of work and in the nature of posts involved. The said principle, in the said case, was violated

because there was historical parity which had not been disturbed till there was pay up gradation for all, except one set of employees working in the ordnance factories who were singled out and denied the benefit. In these circumstances, it was held that the said employees had been subjected to hostile discrimination, for the earlier four Pay Commissions had successively one after the other had equated and treated the said posts as equal. It was held that there was evidence of complete identity of work etc. in the said case.

9. The findings of the Tribunal, in the present case, are to the contrary. It is pertinent to mention that fixation of pay-scale is a delicate and complicated task, which is performed and undertaken by experts keeping in mind several parameters. Disturbance in the payscale can lead to disquiet and cascading effects as often third persons then claim similar up gradation. Fixation of pay-scale is an executive function, performed by the Pay Commission or expert bodies. It requires consideration and comparison of various and varied aspects including the responsibilities, educational qualifications, mode of appointment etc. Courts do not normally set in to perform and advert to the pay fixation exercise as an expert. However, they can interfere when there is invidious discrimination between two sets of employees, in spite of complete and wholesome identity and parity. In such cases, courts can interfere applying the principle of equal pay for equal work. This equation and parity in work, skill and eligibility requirements is missing in the present case.

10. In view of the aforesaid discussion, the writ petition is dismissed. There will be no order as to costs.