

(1992) 11 DEL CK 0034

In the Delhi High Court

Case No : Civil Writ Petition No. 840 of 1992

Delhi Judicial Services Association (Regd.) and Another

APPELLANT

Vs

Delhi Administration and Others

RESPONDENT

Date of Decision : 18-11-1992

Acts Referred:

Citation : (1993) 49 DLT 360 : (1992) 24 DRJ 590 : (1993) LabIC 612 : (1993) 2 LLJ 384 : (1993) RLR 67 : (1993) 2 SLJ 44

Hon'ble Judges : P.N. Nag, J;D.P Wadhwa, J

Bench : Division Bench

Advocate : T.L. Garg, Madan Lokur, E.X. Joseph and S.K. Mahajan, for the Appellant;

Judgement

D.P. Wadhwa, J.

(1) Rule D.B.

(2) Members of the Delhi Judicial: Services Association, the petitioner No. 1, belong to Delhi Judicial Service which is a Class I Service. At the time when this petitioner was filed it was stated that the strength of the judicial officers belonging to Delhi Judicial Service was over 150. The second petitioner Mr. S.K. Tandon is the Secretary of the first petitioner. The petitioners seek a writ, order or direction to the respondents for grant of initial outfit allowance to the members of the first petitioner. They also pray that direction be issued to the respondents to grant initial outfit allowance of Rs. 5,500.00 renewable every five years and also grant reasonable kit maintenance allowance to them. The Delhi Administration, the Union of India through Secretaries in the Ministries of Home Affairs and Law and Justice and Finance (Department of Expenditure) and the Delhi High Court are the respondents in the petition.

(3) The petitioners have referred to para 30 of Volume Iv of the Punjab High Court Rules and Orders as applicable to Delhi prescribing cannone of judicial ethics which is as under:-

"THE dress of the Presiding Officers should be in keeping with the dignity of his office. Shorts and shirts sleeves are quite unsuitable for the Presiding Officers of court. Subordinate judges and Magistrates should wear a white shirt, black coat and necktie and grey or white trousers."

(4) The petitioners also refer to certain observations in the Reports of the Third and Fourth Central Pay Commissions respectively of 1973 and 1986:-

THIRD Central Pay Commission 1973- "The principle is that uniforms etc. should be supplied by the Government only in those cases where their use is essential for the efficient discharge of their duties by certain classes of staff, and not as a general amenity of a perquisite. These are thus generally issued so that the public and the superior officers should be able to readily identify the staff whose duties involve continuous public contact or whose official position must be known if they are to function smoothly and effectively."

FOURTH Central Pay Commission 1986- "Provision of uniform for certain category of employees is considered essential for efficient discharge of their duties. Generally uniforms are supplied to employees who frequently come in contact with public or whose official position must be distinctly known so that they may be easily identified by members of the public and by their own officers."

"RATES of uniform allowance have been reviewed by some of the Ministries/ Departments. Uniform allowance for Ips Officers was reviewed in 1983 but there was no such review for officers of ITB/BSF/CISF. Thus in comparable organisations within the same Ministry, rates of uniform allowance continue to be different. We recommend that the rates of uniform allowance may be reviewed by respective Ministries/Departments and these should be same for comparable categories under each Ministry/Department. We also recommend that uniform allowance for officers of railway protection force, Ncc and border roads organisation, be the same as prescribed for officers of central police organisations after review."

(5) Outfit ALLOWANCE:-"Personnel below officer rank are provided uniforms free of cost initially and also at the expiry of the prescribed period. Service officers are paid grant-in-aid for meeting a portion of the cost of uniforms in the form of initial and renewal outfit allowance. The existing rates of which were fixed in January 1983, are Rs. 2100.00 for Army and Air Force and Rs. 2100.00 for Navy as renewal. outfit allowance payable after 7 years. It has been stated that because of the overall escalation of prices the financial burden on the officers for equipping themselves with service uniforms has increased. It has Therefore been suggested that the Government should undertake liability for the entire cost of uniforms as in the case of personnel below officer rank. Based on cost estimate it has been suggested that the initial outfit allowance should be fixed at Rs. 5,500.00 for Army and Air Force and Rs. 6,400/ for Navy. There is some justification for the suggestion that the entire expenditure on service uniforms may be reimbursed to officers of the defense Forces as is being done for

personnel below officer rank. Government may take a decision in the matter" Until then, we recommend that the rates of initial outfit allowance for service officers may be fixed at Rs. 3,000.00 for Army and Air Force and Rs. 3,500.00 for Navy. We also suggest that there may be no difference between the rates of initial outfit allowance and renewal outfit allowance."

Kit maintenance ALLOWANCE:- "For upkeep of service uniforms the officers in the Navy, Army and Air Force are given kit maintenance allowance (KMA) of Rs. 75.00 p.m. The amount of the allowance is Rs. 30.00 p.m. for officers (regular) and Rs. 200.00 per annum for Mns (local). No kit maintenance allowance is permissible to lady medical officers although they are eligible for payment of initial and renewal outfit allowance. Keeping in view the increased cost of maintenance, we recommend that Kma may be paid at Rs. 100.00 p.m. to all officers in the Army Navy and Air Force, including lady medical officers. We also recommend that Kma may be paid at the rate of Rs. 50.00 p.m. to Mns officers, both regular and local."

(6) Petitioners also referred to a decision of the Supreme Court in All India Judges" Association Vs. Union of India and others, decided on 13 November 1991 where the court made the following observations:-

"THE trial judge is the kingpin in the hierarchical, system of administration of justice. He directly comes in contact with the litigant during the proceedings in Court. On him lies the responsibility of building up of the case appropriately and on his understanding of the matter the cause of justice is first answered. The personality, knowledge, judicial restraint, capacity to maintain dignity are the additional aspects which go into making the court's functioning successful."

(7) The contention raised is that when in all the Government departments where uniform has been prescribed of the officers for the performance of their official duties, it is obligation on the part of the respondents to provide uniform allowance to the members of the first petitioner. The petitioners further aver that officers of the Army, Navy, Air Force, Delhi Police, Crpf, Itbf Police, Csf, Bsf, Postal and Railway, Airlines, Doctors and Nurses, have an official prescribed dress in the performance of their official duties and Therefore are being provided "uniform" and maintenance allowance thereto. To these averments in the petition the Central Government in its counter-affidavit has said that these needed no reply.

(8) The respondents have filed their respective counter affidavits. Both Delhi Administration and Delhi High Court in effect support the stand of the petitioners that they be provided uniform allowance and kit maintenance allowance. On behalf of the Central Government counter-affidavit has been filed by Mr. P.N. Singh, Under Secretary in the Ministry of Law and Justice, Department of Justice, opposing the petition. It is stated that the observations of the Third Pay Commission are not applicable as this Commission had recommended that uniform etc.-should be supplied at the cost of the Government only in those

cases where their use was essential for the efficient discharge of their duties by certain classes of staff and not as a general amenity or a perquisite. On this basis the Central Government says that it could not be said that the petitioners would be able to discharge their duties more efficiently if they were supplied uniform by the Government or they were paid allowance for the same. Then it is also stated that in spite of the memorandum submitted by the first petitioner and also an association of the Delhi Higher Judicial Service officers, the Fourth Pay Commission did not make any specific recommendation for grant of uniform allowance, etc.

(9) During the course of arguments a further affidavit was filed by the second petitioner giving the cost of cloth and stitching charges both for men and women officers. Second petitioner states that he had personally verified these expenses and on affidavit he has given the competitive rates which are as under:-

"1. Woollen coat and jacket, for winter cloth @ Rs. 300.00 p.m. Rs. 600.00
Stitching charges. Rs. 1000.00 2. Terry cotton coat for summer, Cloth @ Rs. 200.00 p.m. Rs. 350.00 Stitching charges Rs. 800.00 3. 2 woollen pants for winters @ Rs. 400.00 Rs. 800.00 4. 3 white pants for summer @ Rs. 250.00 Rs. 750.00 5. 6 white shirts @ 200.00 Rs. 1200.00

Note:- Alternative saree dress for women judicial officers."

(10) He has further stated that for the next three years there will be no additional expenditure on coats but three additional white shirts, cotton pant and woollen pant, i.e. 4,2, 1 per year respectively, entailing an expenditure of Rs. 5100.00 shall be required for the next three years.

(11) Again during the course of hearing of this petition it has been brought to our notice the State of Bihar grants Rs. 75.00 per month as gown allowance to the judicial officers. This was stated on affidavit again by Mr. P.N. Singh, Under Secretary. The petitioners have placed on record a Gazette Notification of the State of O.P. dated 7 June 1989 wherein it is stated that the monthly allowance for the judicial officers for the purchase of law books and for dress (poshak) has been raised from Rs. 150.00 per month to Rs. 300.00 per month.

(12) It is undeniable that petitioners in the performance of their duties as judicial officers have to wear the dress as prescribed by High Court. There cannot be two opinions on that. This aspect, it appears, has not been properly appreciated by the Central Government and -its argument that it could not be said that the petitioners would be able to discharge their duties more efficiently if they were supplied uniform by the Government or they were paid allowance for the same would appear to be rather irrelevant and devoid of reasons.

(13) The officers of the Delhi Judicial Service have to be provided with uniform and allowances for the maintenance of the same. It is obligatory for them to wear the dress as prescribed by Rules and Orders of this Court. We have not been able to find out as to what amount towards cost of dress and maintenance

is paid to judicial officers by other States. It is not clear to us as to on what basis the State of Bihar is paying Rs. 75.00 per month as "gown allowance". We also do not know since when this amount is being paid. This gives us no guidance. As far as State of U.P. is concerned when the cost of books and clothes is spiraling the allowance of Rs.300.00 p.m. paid to judicial officers there cannot have any bearing for the officers in Delhi where the cost of living is undeniable on the higher side. We can take judicial notice of the fact that the costs of law books or for that matter any book are so high that for a sum of Rs. 300.00 one cannot buy even a single good law book. We have also examined the recommendations of the Pay Commissions, particularly the Fourth one which have been reproduced above. These recommendations are of the years 1986. We cannot, however, compare the uniform for the Armed Forces with that prescribed for the judicial officers in the discharge of their respective duties. Judicial officers are expected to be properly -dressed as per rules and we do not think any period be fixed for buying a new dress for them. They should themselves change the dress as and when the need arises.

(14) Considering all these aspects of the matter we are of the opinion that all the judicial officers should be provided a dress allowance initially and then they should be given a monthly allowance which shall be towards maintenance of the dress and also be enough for them to purchase dress out of that and not that they should be provided further cost of dress every three or five years. The break up of cost of clothes and stitching charges as given in the affidavit of Mr. S.K. Tandon and as mentioned above have not been disputed before us as no affidavit in reply thereto has been filed. We are of the opinion that all judicial officers who have been appointed to the service should be paid initially a lump sum amount of Rs. 5,500.00 and then they should be paid every month a sum of Rs. 300.00 as dress allowance for the purpose aforementioned. The principle so laid will also apply to the members of the Delhi Higher Judicial Service and they shall also be paid Rs. 5,500.00 and Rs. 300.00 every month towards dress allowance. We make it clear that any members of the First petitioner who has received the benefit of the amount of Rs. 5,500.00 once will not be entitled to it again on his promotion to the Delhi Higher Judicial Service.

(15) Accordingly, the petition is allowed and a mandamus is issued to the respondents in terms mentioned above. Since the petitioners have been agitating for the dress allowance for the past number of years without any proper response from the Central Government and in spite of both the Delhi Administration and the Delhi High Court recommending the dress allowance and which right of the petitioners has been upheld by us we direct that monthly dress allowance shall be payable from 1 March 1992, the date of filing of this petition being 21 February 1992. We also direct that the amount of Rs. 5,500.00 and the arrears of the monthly dress allowance be paid on or before 31 December 1992. A copy of this order shall be given to counsel for all the parties by the registry dusty.

(16) Rule is made absolute.