
(2019) 01 CAT CK 0079

In the Central Administrative Tribunal

Case No : Original Application No. 4325 Of 2012

Shrinivas Singh And Ors

APPELLANT

Vs

Union Of India & Ors.

RESPONDENT

Date of Decision : 10-01-2019

Acts Referred:

Textiles Committee Rules, 1965 — Rule 33(4)
Constitution Of India, 1950 — Article 14, 16, 39(d)

Citation : (2019) 01 CAT CK 0079

Hon'ble Judges : V. Ajay Kumar, J;A.K. Bishnoi, Member (A)

Bench : Division Bench

Advocate : M.K. Bhardwaj, V.S.R. Krishna

Final Decision : Dismissed

Judgement

A.K. Bishnoi, Member (A)

1. MA No.3622/2012 filed by the applicants for joining together in a single application is allowed.

2. The applicants have filed the present OA seeking the following relief:-

"i) To quash and set aside the impugned order dated 12.07.2012.

ii) To direct the respondents to grant to the applicants pay scale of Rs.5000-8000 (Pre-Revised) w.e.f. 01.01.1996 and pay scale of Rs.5500-9000 w.e.f. 27.04.2007 with all arrears of pay and interest @ 18%.

iii) to direct the respondents to grant to the applicants the pay scale as given to their counter parts in the various Departments and Ministries with similar qualification.

iv) To allow the O.A. with costs.

v) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicants".

2. Briefly the facts of the case, as stated by the applicants, are as follows:-

2.1 The applicants, two in number, were initially appointed as Junior Investigator on 21.03.1997 (applicant No.1) and on 03.04.1997 (applicant No.2) in the pay scale of Rs.1400-2300 (pre- revised) in the services of the Textiles Committee. Pursuant to the recommendations of the V Central Pay Commission, the applicants' pay was fixed in the revised scale of Rs.4500-7000 and not in the upgraded scale of Rs.5000-8000, as was done in some other departments. The applicants submitted a number of representations to the respondents and during the pendency of these representations, a process was initiated for giving revised scale to the applicants. Respondent No.2 issued an Office Order dated 14.06.2007 upgrading their pay scale to Rs.5500-175-9000 by merging the post of Junior Investigator with Field Officer. Thereafter, the pay scale of Field Officer was upgraded to Rs.6500-10500 w.e.f. 27.11.2007. On 19.12.2008, the pay of the applicants was again fixed in the lower pay scale of Rs.4500-7000 with Grade Pay of Rs.2800/-.

2.2 The applicants thereafter submitted a representation on 05.01.2009, pointing out anomalies in fixation of pay scale as compared to similarly placed personnel in other Ministries/Departments, who were getting the pay scale of Rs.5000-8000/5500-9000 whereas the applicants were given a lower pay scale.

2.3 The applicants then made a number of representations on the same grounds and seeking higher pay scale. Aggrieved by the inaction of the respondents, the applicants filed OA No.3568/2011, which was disposed of vide order dated 13.10.2011 with the following directions:-

"5. In view of the above limited prayer of the applicants, we deem it appropriate to dispose of this OA, at the admission stage itself, without expressing any opinion on the merits of the case, by directing the respondents to consider the pending representations dated 29.01.2010, 05.07.2010 and 13.08.2010, treating the present OA as a supplementary representation of the applicants and decide the same expeditiously in accordance with the rules. The decision taken may be communicated to the applicants through a reasoned and speaking order on the subject within a period of three months from the date of receipt of a copy of this order.

6. The OA stands disposed of in terms of the above directions with no order as to costs. Registry is directed to send a copy of the OA along with a copy of this order to the respondents."

2.4 The applicants while challenging the order passed by the respondents dated 12.07.2012 submitted that the respondents have suppressed the material fact that they had been given the pay scale of Rs.5000-150-8000 for the post of Hindi Translators, who were also directly recruited as the applicants and only mentioned about Assistants and Sr. Stenographers, which are promotional posts. The applicants have further contended that the posts of Assistant, Senior Stenographer of Textiles Committee were compared to similar posts in other

departments and given the higher pay scale of Rs.5000-150-8000. The same was not done in the case of the applicants and their situation was not even compared to the persons holding the similar posts in the same Ministry of Textiles.

2.5 The applicants have taken the following grounds:-

i) The impugned order has been passed by the respondents without application of mind by ignoring their own earlier decisions;

ii) In view of the recommendations of the V Central Pay Commission to grant minimum pay scale of Rs.5000- 8000 to "Junior Investigators" and equal posts in other Ministries, the action of the respondents in not granting the same pay scale of Rs.5000-8000 is violative of Articles 14 & 16 of the Constitution of India;

iii) The Respondent No.2 vide Office Order dated 25.04.2008 granted the pay scales of Rs.6500-10500 to them and thereafter vide order dated 19.12.2008 reduced the pay scales at a lower pay scale of Rs.5200-20200. This is arbitrary and against the well settled norms of pay protection and violative of principles of natural justice;

iv) The parity in pay scale is an accepted and well settled norm. The applicants have cited the judgments in OA No.3052/2009-Sudesh Kumar & Ors. vs. Union of India & Ors. as well as in OA No.2951/2003-Kuldip Singh vs. CAT & Ors., wherein the Tribunal had upheld the principle of parity in pay scale in respect of persons holding similar posts with similar qualifications, underlying the principle of 'equal pay for equal work' under Article 39 (d) of the Constitution of India;

v) In view of the aforesaid judgments and orders of the Tribunal upholding parity of pay scales vis-a-vis upgradation, the applicants are also entitled to the same treatment and the respondents have not given any justification as to why they withdrew the pay scale of Rs.5500-9000 & Rs. 6500-10500/-.

vi) The applicants have challenged the action of the respondents being illegal, arbitrary and discriminatory in not granting them appropriate pay scales as recommended by the VI Central Pay Commission, and as has been given to their counter-parts in various departments and Ministries with similar qualifications.

3. The respondents in their counter-affidavit have submitted that the grant of pay scale of Rs.5500-9000 to the applicants was improper and, therefore, their pay was fixed under the VI Central Pay Commission without taking it into consideration. The V Central Pay Commission recommended the pay scale for Statistical Assistants pertaining to specific organizations and Textiles Committee was not part of these specific organizations. They have also stated that the pay of the applicants was fixed on the recommendation of the V Central Pay Commission on 01.11.1997 and the first communication sent by the applicants was only on 05.01.2009, i.e., after 11 years of fixation of pay. The post of Assistants, Senior Stenographers, Hindi Translator and Librarian fall under the administrative control and the nature of duties are very distinct and different and as such no parity can be drawn to the post of Junior Investigator.

4. The applicants have filed their rejoinder to the reply filed by the respondents more or less reiterating the pleas taken in the OA.

5. We have perused the pleadings and judgments placed on record and heard the arguments advanced by the learned counsel for both the sides.

6. As regards the cases cited by the applicants in *Sudesh Kumar & Ors.*, (supra) and *Kuldip Singh* (supra), we find that the facts and circumstances in the instant case are very different from that in the cases cited. As such, no reliance can be placed on these judgments in the present matter.

7. This Tribunal in its order dated 13.10.2011 in OA No.3568/2011 had given directions to the respondents to consider the representations of the applicants and pass reasoned and speaking order on the subject. The respondents have duly passed such an order in which they have examined the points raised by the applicants. The important points which emerge in the speaking order are as follows:

i) The applicant Shri Shrinivas Singh was appointed on 21.03.1997 and Shri Sushil Kumar was appointed on 03.04.1997 whereas the recommendations of the V Central Pay Commission were implemented by the Committee w.e.f. 01.01.1996, which was much prior to their appointments. Further, they made the first communication with the Committee on 05.01.2009, i.e., after 11 years of fixation of their pay.

ii) As regards the pay scale of Junior Investigators in other departments it was stated that under the V Central Pay Commission, specific recommendations have been made in respect of those Central Government offices. No such specific recommendation has been made regarding the Textiles Committee. The Pay Commission took into consideration the duties, responsibilities, nature of work involved etc., while recommending the pay scale for each post in respective organization.

iii) The merger of cadre of Junior Investigator in the pay scale of Rs.4500-125-7000 with the cadre of Field Officer in the pay scale of Rs.5500-175-9000, which was subsequently revised to Rs.6500-200-10500 was done by the Textiles Committee without obtaining the approval of Ministry of Textiles as required under the provisions of Rule 33 (4) of the Textiles Committee Rules, 1965. This upgradation and amendment was not approved by the Ministry and hence it was subsequently disallowed.

8. It is seen that in the present OA the main issue to be decided is essentially one of parity of the applicants with regard to certain other categories of employees in terms of qualifications, job prospects, nature of duties and such other ingredients material for fixation of pay scales.

9. Determination of pay scales and issues of equivalence is dependent on a complex matrix of facts in which only a specialized Institution as a Pay Commission can come to a reasonable and fair conclusion after a detailed

analysis of required qualifications, duties and responsibilities, nature of work and so on. In areas where the Pay Commission's recommendations leave scope for filling in the gaps or extrapolation, such exercise can be undertaken by the Ministry concerned since they also have the wherewithal to do so. However, the scope for judicial intervention in such matters, because of the very inherent nature of the exercise, is somewhat narrow and it should only be resorted to in case of any glaring inconsistency or irregularity.

10. We find that the speaking order dated 12.07.2012 deals with the representations of the applicants rather extensively and with due application of mind. The various points raised in the representations have been meticulously dealt with and all contentions of the applicants have been satisfactorily addressed with reference to facts and rules. Under the circumstances, when the order passed by the respondents dated 12.07.2012 suffers from no infirmity or defect, we find no merit in this OA.

11. The OA is accordingly dismissed. No order as to costs.