

Union of India and Another,

Vs

P. V. Hariharan and Another

Civil Appeal No. 7127 of 1993

(B. P. Jeevan Reddy, K. S. Paripoornan JJ)

12.03.1997

JUDGMENT

B. P. JEEVAN REDDY, J. –

1. This appeal is preferred against the judgment of the Central Administrative Tribunal, Ernakulam Bench, allowing OA No. 391 of 1991 filed by the respondents herein.
2. The respondents are Tool Room Assistants in the Integrated Fisheries Project (IFP) which is a wing of the Fisheries Department, the other wing being the Central Institute of Fisheries, Nautical and Engineering Training Department (CIFNET). The pay scale of Tool Room Assistants in IFP was initially Rs. 85-128, revised to Rs. 210-290. The IVth Pay Commission prescribed a uniform pay scale Rs. 800-1150 for two pre-existing pay scales, viz., Rs. 210-270 and Rs. 210-290. The respondents thus came into the pay scale Rs. 800-1150.
3. The Central Government issued a notification under Rule 6 of CCS (CC&A) Rules classifying various posts into Groups A, B, C and D. Group C comprised central civil posts "carrying a pay or a scale of pay with a maximum of over Rs. 1150 but less than Rs. 2900". Group D comprised civil posts "carrying a pay or a scale of pay, the maximum of which is Rs. 1150 or less". It is stated by the respondents that their post comes under "skilled" group and that as per the notification aforesaid, this category is placed in Group C. Reliance is placed upon Annexure A-8 to the writ petition which was a list of names of the posts in the Integrated Fisheries Department. Item 58 of the said list, it was stated, includes the post carrying pay scale of Rs. 210-290 (which scale was later revised to Rs. 800-1150) in Group C. The appellants, who were respondents in the original application, opposed the respondents' claim. The Tribunal held that inasmuch the post held by the respondents is included in Group C, they are entitled to the pay scale of Rs. 1150-2900. The original application filed by the respondents was allowed accordingly.
4. We are unable to appreciate the reasoning or approach of the Tribunal. The pay scale of Tool Room Assistant in IFC is Rs. 800-1150. In other words, the maximum of the said pay scale is not "over Rs. 1150" so as to fall within Group C. The post properly fell under Group D because it carried a pay, the maximum of which was "Rs. 1150 or less". "Over Rs. 1150" means Rs. 1151 and above. "Rs. 1150" cannot be characterised as "over Rs. 1150". The said post, therefore, properly fell under Group D and not under Group C. Assuming that the said post was mentioned under Group C, it may be - or may not be - an error. What is material is that the classification cannot result in change of pay scale from Rs. 800-1150 to Rs. 1150-2900. This is simply unimaginable. Pay scales are what are prescribed for each post by the Government which is very often done on the basis of recommendations of a Pay Commission or a similar expert body. Classification of posts has nothing

to do with fixation of pay scales; it only classifies posts into several grounds based upon the pay scales already fixed. Classification and prescribing pay scales for several posts are two different and distinct functions. The Tribunal's order is, our opinion, wholly unsustainable in law. The reasons given in support of the impugned order are ambiguous and vague. The impugned order for the Tribunal is accordingly set aside. Shri Nambiar, learned counsel for the respondents, however, submitted that the respondents had also raised the plea of "equal pay for equal work" on the basis of the pay scale granted to Tool Room Assistants in the CIFNET, but that the Tribunal has not dealt with it. We, therefore, remit the matter to deal with the said ground according to law and pass final orders in the original application.

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 are 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 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 the 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. We have come across orders passed by Single Members and that too quite often Administrative Members, allowing such claims. These orders have a serious impact on the public exchequer too. It would be in the fitness of things if all matters relating to pay scales, i.e., matters asking for a higher pay scale or an enhanced pay scale, as the case may be, on one or the other ground, are heard by a Bench comprising at least one Judicial Member. The Chairman of the Central Administrative Tribunal and the Chairmen of the State Administrative Tribunal shall consider issuing appropriate instructions in the matter.

Copies of this Order shall be communicated to the Hon'ble Chairman, Central Administrative Tribunal, and to all the Hon'ble Chairmen of the State Administrative Tribunals for bringing this order to the notice of all the learned Vice-Chairmen and Members.