

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10595 of 2015

DATE OF DECISION: AUGUST 10, 2015

D.R.CHANDLA & OTHERS

...PETITIONERS

VERSUS

UNION OF INDIA & OTHERS

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.
HON'BLE MR. JUSTICE DARSHAN SINGH.**

1. Whether the judgement should be reported in the digest? Yes

PRESENT: MR. RAJEEV ANAND, ADVOCATE FOR THE PETITIONERS.

M. JEYAPPAUL, J.

1. The writ petitioners have sought for quashing of the impugned order dated 12.12.2014 passed by Central Administrative Tribunal, Chandigarh Bench rejecting their plea for higher grade pay of ₹4600/- from ₹4200/- to Assistant Central Intelligence Officer-II (ACIO-II) of Intelligence Bureau (I.B.) and suitable higher pay band and higher grade pay to Assistant Central Intelligence Officer-I (ACIO-I) w.e.f. 1.1.2006.

2. The petitioners retired from I.B. as ACIO-I(G) in the pay scale of ₹6500-10500 during 2006 to 2011. The post of Security Assistant, Junior Intelligence Officer Grade-II, Junior Intelligence Officer Grade-I, ACIO-II and ACIO-I belonged to Executive cadre, whereas the post of Assistants/Personal Assistants belonged to Ministerial cadre.

3. It has been submitted by the writ petitioners that there had always been a parity in the pay scales of ACIOs-II and Assistants/Personal Assistants of IB. ACIO-I have been given pay scale of ₹6500-10500 w.e.f.

1.1.1996. Even in the revision of pay scales which took place on 1.1.2006, parity of pay was maintained. But unfortunately, vide order dated 14.9.2010, the grade pay of Assistants/Personal Assistants was upgraded to ₹4600/-. In other words, the Assistants/Personal Assistants have been equalized to ACIO-I in the matter of pay scales/grade pay and ACIOs-I have been placed in pay band of ₹9300-34800 with grade pay of ₹4600/-. Three pay scales ₹5000-8000, ₹5500-9000 and ₹6500-10500 have been merged. It is pleaded that as a result of such a merger ACIO-II should have been given grade pay ₹4600/- instead of ₹4200/-. The Ministerial cadre discharge only clerical/desk job, whereas the ACIO-II and ACIO-I work round the clock, braving heat and cold.

4. The respondents have contended that the proposal for enhanced grade pay of ₹4600/- to the post of ACIO-II was taken up with the Government, who rejected the proposal on the ground that in terms of Para 7.19.62 of 6th CPC Report, the upgraded revised structure has been extended to non-Gazetted Executive posts which included grade pay of ₹4200/- to the post of ACIO-II. Similarly, the post of ACIO-I was granted the upgraded scale of ₹7450-11500 (pre-revised) which was replaced with grade pay of ₹4600 by 6th CPC. It has been contended that specific recommendation for the Executive Cadre of I.B. has been accepted by the Government and therefore, it was not possible to upgrade the pay scale of ACIO-I and that the Court which has no expertise is not the proper Forum to decide the issue involved in this case.

5. The Tribunal having observed that it has no expertise to embark upon the enormous task of equating the duties and responsibility of two

posts and that the writ petitioners also have failed to make out a case that there was hostile discrimination, chose to dismiss the application filed by the writ petitioners.

6. The point that arises for consideration is whether the pay parity sought for by the petitioners by stepping-up their grade pay is sustainable.

7. Learned counsel appearing for the writ petitioners would submit that the Assistants/Personal Assistants of I.B. who were fixed at the pay scale of ACIOs-II have now started receiving the pay scales of ACIO-I which is against the spirit of the recommendation made by 6th Pay Commission. Inasmuch as ACIOs-I who were superior in rank had been downgraded by stepping-up the pay scale of Assistants/Personal Assistants of I.B. who originally received the pay scales of ACIOs-II, the plea for enhanced grade pay made by the petitioners deserves to be accepted.

8. In **State of Madhya Pradesh and another vs. Parmod Bhartiya and others, 1993(1) SCC 539**, it has been observed by the Hon'ble Supreme Court that unless the requirement of similarity of skill, efforts and responsibility to discharge two different posts is established, the plea for upgradation of scale of pay cannot be entertained.

9. In **Hukam Chand Gupta vs. Director General, ICAR and others, 2012(10) SCALE 497**, it has been categorically held by the Hon'ble Supreme Court that categorization of posts and the prescription of duties of each post are the exclusive domain of the employer. Inasmuch as such a categorization and prescription by its very nature are very complex to fathom, it could be assessed only by pay commissions or employers, as the case may be, who have the benefit of assessment made by expert bodies.

The Courts shall not venture to substitute their opinion with the opinion of the experts who have got a lot of expertise.

10. In the background of the above decisions laid down by the Hon'ble Supreme Court, we are of the considered view that skill, efforts and responsibility required for discharging their position as Assistants/Personal Assistants of I.B. are totally different from that of ACIO. It is an admitted position that ACIOs fall under the Executive Cadre and the Assistants/Personal Assistants belong to the Ministerial Cadre.

11. The respondents in their wisdom thought it fit to upgrade the pay scale of Assistants/Personal Assistants of I.B., considering their duties, responsibilities and the functions. There is nothing on record to show that the respondents have acted irrationally or their action was vitiated by *malafides*. Inasmuch as the qualitative difference in the duties and functions of the Assistants/Personal Assistants has been duly weighed by the respondents while upgrading their pay scales, the Courts cannot unnecessarily embark upon an exercise to test the wisdom of the respondents.

12. For all these reasons, we find that there is no merit in the writ petition and therefore, the writ petition stands dismissed.

(M. JEYAPPAUL)
JUDGE

August 10, 2015
Gulati

(DARSHAN SINGH)
JUDGE