

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.16183 of 2016
Date of decision: 11.08.2016**

S.K.Verma

.....Petitioner

Vs.

Union of India and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: Mr. Dharmender Singh Rawat, Advocate for the petitioner.

Ajay Kumar Mittal,J.

1. The petitioner through the present petition under Articles 226/227 of the Constitution of India prays for quashing the impugned order dated 9.12.2015, Annexure P.4 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (CAT) rejecting his claim with regard to parity of pay scale. Further prayer has been made for a direction to the respondents to grant the petitioner pay scale equal to the pay scales granted to his counter parts working as Assistant Registrar, Debts Recovery Tribunal (DRT) by quashing the order dated 16.4.2013, Annexure A.1.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioner was

appointed as Assistant Registrar in the Customs, Excise and Service Tax Appellate Tribunal (CESTAT), Principal Bench, New Delhi on 21.4.1999 by way of direct recruitment. On 26.3.2003, Annexure A.2, the petitioner addressed a representation to the Revenue Secretary, Department of Revenue, Ministry of Finance seeking revision of pay scales of the Assistant Registrars, Deputy Registrars and the Registrar of CESTAT and sought parity of pay with the corresponding officials of the DRT. The President, CESTAT agreeing with the claim forwarded the representation to respondent No.1 vide letter dated 28.8.2003, Annexure A.3. Having received no action, the petitioner filed application before the Tribunal which was disposed of vide order dated 1.6.2004, Annexure A.4 with a direction to respondent No.1 to consider the representations by passing a speaking order within six months from the date of receipt of a certified copy of the order. Thereafter, the department informed the petitioner vide order dated 1.6.2004 that it had agreed to the upgradation of the pay scale of the post of Assistant Registrar in CESTAT from ₹ 6500-10,500 to the pay scale of ₹ 8000-13500 with prospective effect. It was also stated that the request made by the petitioner seeking parity of pay with the post of Assistant Registrar in DRT had been considered and could not be acceded to as the channels of promotion in CESTAT and DRT were different. Aggrieved by the said letter, the petitioner and other Assistant Registrars, CESTAT filed application before the Tribunal. The Tribunal vide order dated 30.5.2007, Annexure A.6 allowed the said application and remitted the matter back to the respondent for reexamination of the claim for parity of pay scale strictly in accordance with the parameters laid down by the Apex court in various decisions. A reasoned order was directed to be passed within a period of two months from the date of receipt of a copy of the order. Respondent No.1 instead of

complying with the direction issued by the Tribunal referred the matter of upgradation of pay scale of the petitioner to the VIth Central Pay Commission. The Pay Commission did not discuss the issue in question. Vide order dated 7.11.2008, Annexure A.9, the claim of the petitioner for parity of pay scale with the Assistant Registrars of DRT was rejected. The said order was not communicated to the petitioner. Vide letter dated 23.11.2010, Annexure A.11, the petitioner came to know through RTI that order dated 7.11.2008, Annexure A.9 had been passed by the respondents. The petitioner filed application before Bangalore Bench of the Tribunal. The petitioner prepared a comparative chart and presented before the Tribunal. Respondent No.1 issued an office memorandum dated 16.4.2013, Annexure A.1 stating that the department of expenditure which was the nodal department rejected the matter regarding upgradation of scale of pay of Assistant Registrars in CESTAT at par with Assistant Registrars in DRT. Aggrieved thereby, the petitioner approached the Central Administrative Tribunal, Principal Bench New Delhi by filing appeal dated 5.5.2014. The respondents filed counter affidavit in July 2014 and the petitioner filed rejoinder. After considering the matter, the Tribunal passed the impugned order dated 9.12.2015, Annexure P.4 and dismissed the application filed by the petitioner. Hence the instant writ petition by the petitioner.

3. We have heard learned counsel for the parties.
4. The claim made by the petitioner for pay parity between the posts of Assistant Registrar in CESTAT and DRT was examined by the Tribunal on the basis of the law laid down by the Apex court in various judgments on the doctrine of “equal pay for equal work”. The following observations made by the Apex Court in *State of MP vs. Ramesh Chandra*

Bajpai, (2009) 11 SCALE 619 were quoted by the Tribunal:-

“It is well settled that the doctrine of equal pay for equal work can be invoked only when the employees are similarly situated. Similarity in the designation or nature or quantum of work is not determinative of equality in the matter of pay scales. The court has to consider the factors like the source and mode of recruitment/appointment, qualifications, the nature of work, the value thereof, responsibilities, reliability, experience, confidentiality, functional need etc. In other words, the equality clause can be invoked in the matter of pay scales only when there is wholesale identity between the holders of two posts.”

Further in *State of Haryana vs. Charanjit Singh*, (2005) 8 SCALE 482, the Apex Court held that normally the applicability of the principle of equal pay for equal work must be left to be evaluated and determined by an expert body and these are not matters where a writ court can lightly interfere. In the present case, it was concluded by the respondent authorities that there was no similarity between the posts of Assistant Registrar in CESTAT and DRT either in method of recruitment or in eligibility criteria. The post of Assistant Registrar in Income Tax appellate Tribunal which carried the same duties and responsibilities as that of Assistant Registrar in CESTAT also carried the pay scale of ₹ 8000-13500/- whereas the post of Deputy Register in CESTAT which also carried out the similar functions carried the pay scale of PB-3 plus grade pay ₹ 6600/-. Therefore, carrying similar duties and functions alone could not form the basis of grant of equal pay. Other aspects like posts in the hierarchy etc. also needed to be looked into for considering pay scales of the various posts. The Tribunal rightly upheld the view taken by the respondent authority. Learned counsel for the petitioner has not been

able to produce any material to show that the view taken by the authorities is illegal or perverse. Consequently, finding no merit in the petition, the same is hereby dismissed.

(Ajay Kumar Mittal)
Judge

August 11, 2016
‘gs’

(Ramendra Jain)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes