

* IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

* HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND

* HON'BLE SRI JUSTICE M. GANGA RAO

+ W.A.NOs.440 & 446 of 2017

% Date: 13-11-2017

W.A.No.440/ 2017

Between:

1. Security Printing and Minting Corporation of India Limited, 16th Floor, Jawahar Vyapur Bhavan, Janpath, New Delhi – 110 001, rep. by its Chairman & Managing Director.
2. Security Printing Press, A Unit of Security Printing and Minting Corporation of India Limited, Mint Compound, Saifabad, Hyderabad, rep. by its General Manager.

.... Appellants

And

1. Shri G. Hari Hara Reddy, S/o. Late Appala Swamy Reddy, ATO, SPP Hyderabad R/o. Flat No.B7, Express Apartments, Lakdi Ka pul, Hyderabad – 500 004.
2. M. Nageshwara Rao, S/o. Late M. Rattaiah ATO, SPP Hyderabad, R/o. 8-2-684/245, NBT Nagar, Road No.12 Banjara Hills, Hyderabad -34.
3. Mohd. Abdul Wahed S/o. Late Md. Abdul Hafiz DTO SPP, Hyderabad R/o. H.No.5-10-197/1/2, F.No.201, Windsor Apartments Hills, Fort Road Adarsh Nagar, Hyderabad – 500 004.
4. L. Lioganadhan S/o. Loga Subramanyam DTO SPP, Hyderabad R/o. F.No.15, Chardra Apartments, Safilguda, Hyderabad.
5. M. Suresh Chandranath S/o. Late Papa Lal DTO SPP, Hyderabad R/o. 12-1-1983, Mallepally, Hyderabad-1.
6. G.V. Soma Shekhar S/o. G. Srinivasa Rao, DTO SPP, Hyderabad, R/o. F. No.D104, Keshav Dale Apartments Anand Nagar, Khairtabad, Hyderabad
7. Union of India Rep. by its Joint Secretary, (C&C) Division Department of Economic Affairs, New Delhi -110 001.

... Respondents

W.A.No.446/ 2017# Between:

Union of India Rep. by its Joint Secretary,
(C&C) Division Department of Economic Affairs,
New Delhi -110 001.

..... Appellant

And

1. Shri G. Hari Hara Reddy, S/o. Late Appala Swamy Reddy, ATO, SPP Hyderabad R/o. Flat No.B7, Express Apartments, Lakdi Ka pul, Hyderabad – 500 004.
2. M. Nageshwara Rao, S/o. Late M. Rattaiah ATO, SPP Hyderabad, R/o. 8-2-684/245, NBT Nagar, Road No.12 Banjara Hills, Hyderabad -34.
3. Mohd. Abdul Waheed S/o. Late Md. Abdul Hafiz DTO SPP, Hyderabad R/o. H.No.5-10-197/1/2, F.No.201, Windsor Apartments Hills, Fort Road Adarsh Nagar, Hyderabad – 500 004.
4. L. Loganadhan S/o. Loga Subramanyam DTO SPP, Hyderabad R/o. F.No.15, Chandra Apartments, Safilguda, Hyderabad.
5. M. Suresh Chandranath S/o. Late Papa Lal DTO SPP, Hyderabad R/o. 12-1-1983, Mallepally, Hyderabad-1.
6. G.V. Soma Shekhar S/o. G. Srinivasa Rao, DTO SPP, Hyderabad, R/o. F. No.D104, Keshav Dale Apartments Anand Nagar, Khairtabad, Hyderabad
7. Security Printing and Minting Corporation of India Limited, 16th Floor, Jawahar Vyapur Bhavan, Janpath, New Delhi – 110 001, rep. by its Chairman & Managing Director.
8. Security Printing Press, A Unit of Security Printing and Minting Corporation of India Limited, Mint Compound, Saifabad, Hyderabad, rep. by its General Manager.

... Respondents

! Counsel for the Appellants

: Mr. G. Vidyasagar Sr. Counsel

^ Counsel for Respondent Nos. 1 to 6 : Mr. Siva

^ Counsel for Respondent Nos. 7 & 8 : K. Lakshman, ASG

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? Cases referred

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M. GANGA RAO

WRIT APPEAL Nos.440 & 446 of 2017

COMMON JUDGMENT: (Per VRS,J)

The Union of India on the one hand and the Security Printing and Minting Corporation of India on the other hand have come up with the present writ appeals challenging an order passed by the learned Single Judge, allowing the writ petition filed by the respondents, two of whom were working as Assistant Technical Officers and the others working as Deputy Technical Officers.

2. Heard Mr. G. Vidhyasagar, learned Senior Counsel appearing for the Corporation, Mr. K. Lakshman, learned Assistant Solicitor General appearing for the Union of India and Mr. Siva, learned counsel appearing for the respondents.

4. Respondents 1 and 2 were employed as Assistant Technical Officers and respondents 4 to 6 were employed as Deputy Technical Officers in the Security Printing Press at Hyderabad. This Security Printing Press was actually constituted into a separate Corporation, with effect from February, 2006.

5. The recommendations of the 5th Central Pay Commission were notified with the publication of the Revised Pay Rules, 1997 on 30.05.1997. When the recommendations were accepted and the Rules were issued, the scales of pay of the posts of Foreman (Printing), Assistant Technical Officer and Deputy Technical Officer, were made respectively as Rs.5500-9000, Rs.5000-8000 and Rs.5500-9000. In the hierarchy, Foreman (Printing) was in the feeder category to the post of

Assistant Technical Officer and the post of Assistant Technical Officer was in the feeder category to the post of Deputy Technical Officer.

6. In other words as per the recommendations of the 5th Central Pay Commission, as originally agreed to by the Central Government in the revised pay-scales, 1997, the intermediary promotional post was granted a lower pay-scale than the post which was its feeder category, and the highest promotional post was granted a pay-scale on par with the post of Foreman (Printing).

7. In an attempt at rectification of this anomaly the Government seems to have issued a communication dated 10.02.2001, recommending a scale of pay of Rs.5000-8000 for Foreman (Printing), a pay-scale of Rs.5000-8000 for the post of Assistant Technical Officer and a pay-scale of Rs.5500-9000 for Deputy Technical Officer. In other words, the pay-scales of the posts of Foreman (Printing) and Assistant Technical Officer were sought to be equalized, by bringing down the pay-scale of the post of Foreman (Printing), from what was originally agreed to pursuant to the recommendations of the 5th Central Pay Commission. Aggrieved by the equalization sought to be made, by downgrading the pay-scales to a level lower than that recommended by the 5th Central Pay Commission, the Industrial Workmen working in the Security Printing Press, numbering about 57, which included those holding the post of Foreman, filed an application before the Central Administrative Tribunal in O.A.No.382 of 2002 . The said application was allowed by the Tribunal, by an order dated 30.04.2003, with a direction to the Central Government to implement the pay-scales as recommended by the 5th Central Pay Commission.

8. Challenging the order of the Central Administrative Tribunal in O.A.No.383 of 2002, the Central Government filed a writ petition in W.P.No.15282 of 2003. The writ petition was dismissed by a Bench of this Court by order dated 11.12.2003. The said order was also confirmed by the Supreme Court in S.L.P (Civil) No.7062 of 2004.

9. Consequently, Foreman (Printing) got the scale of pay of Rs.5500-9000 as originally recommended by the 5th Central Pay Commission restored, with the intervening Memo dated 10.02.2001 being set aside.

10. Thereafter, the respondents herein filed a writ petition in W.P.No.403 of 2007 on the file of this Court praying for declaring as illegal, the inaction on the part of the respondents in implementing the scales of pay duly rectifying the anomaly in respect of Assistant Technical Officers and Deputy Technical Officers as they have done in respect of the other employees, in their proceedings dated 29.06.2006 and 12.07.2006. This writ petition was allowed by a learned Judge by order dated 27.01.2017 against which the appellants have come up with the above writ appeals challenging the said order.

11. The main grievance of the appellants in these writ appeals is that the anomalies, if any arising out of the implementation of the recommendations of the pay commissions, may have to be referred to the Anomalies Committee constituted by the Central Government and that though one such Committee was constituted, the same got dissolved, by the time, the respondents came up with a plea. The writ petition was filed in the year 2007 and the recommendations of the 6th Central Pay Commission themselves were accepted by the Government and notified on 29.08.2008. Therefore, the contention of the appellants is that the

order of the learned Single Judge directing the rectification of the anomaly that arose out of the implementation of the recommendations of the 5th Central Pay Commission, cannot now be worked out, after the implementation of the recommendations of the 6th Central Pay Commission and after the expiry of the term of the Anomalies Committee.

12. The response of the learned counsel for the respondents is that though the recommendations of the 5th Central Pay Commission were accepted and the Government notified the Revised Pay-Scale Rules, 1997, on 30.05.1997, a further anomaly was created, when the Government issued a Memo on 10.02.2001, under the guise of rectifying the first anomaly. This second anomaly created in February, 2001, became more aggravated, due to a third anomaly created by the decision of the Central Administrative Tribunal in the applications filed by 57 Industrial Workmen. Therefore, the contention of the learned counsel for the respondents is that eventually, it is only when the judgment rendered by the Tribunal in respect of 57 workmen in O.A.No.382/2001 got implemented in June/July, 2006 that the anomaly became more aggravated than earlier and hence the respondents approached this Court. The respondents could not go to the Tribunal since by February, 2006 a separate Corporation was created and that Corporation was not notified as one of the institutions that came within the jurisdiction of the Central Administrative Tribunal. Hence it is contended that the order of the learned Judge does not call for any interference.

13. We have carefully considered the rival contentions. Rather than explaining the rival contentions in prose, it would be ideal to present in a tabular column the core dispute between the parties. As we have indicated in the narration, we are only concerned now with three different

categories of posts, viz., Foreman (Printing), Assistant Technical Officer and Deputy Technical Officer. We shall present in a tabular column, the pay-scales as originally recommended by the 5th Central Pay Commission and accepted by the Government in respect of those three posts, the scales of pay to which they were modified by the Government in February, 2011 and the scales of pay to which the pay-scales were modified subsequently after the decision of the Tribunal in O.A.No.382 of 2002.

Posts	Pay-scale recommended by the 5 th Central Pay Commission and accepted by the Government	Pay-scales as modified by the Government Memo in February, 2001	Pay-scales as modified in June/July 2006 pursuant to the decision of the CAT in O.A.No.382/2002
Foreman (printing)	Rs.5500-9000	Rs.5000-8000	Rs.5500-9000
Assistant Technical Officer	Rs.5000-8000	Rs.5000-8000	Rs.5000-8000
Deputy Technical Officer	Rs.5000-9000	Rs.5500-9000	5500-9000

14. The above tabulation would show that it was only the post of Foreman (Printing) that underwent metamorphosis from 1996 up to 2006 at three different points of time. One reduction in the pay-scale of the post of Foreman (Printing) was brought forth by a Government Memo dated 10.02.2001, on the specious ground that the original anomaly was to be rectified. The second change came after the first change was set aside by the Tribunal and the same got approved by a decision of this Court which was confirmed by the Supreme Court.

15. In other words, the pay-scales of the posts of Assistant Technical Officer and Deputy Technical Officer did not undergo a change from what they were from the date the Revised Pay-scale Rules, 1997

were implemented. This makes it clear that insofar as the Assistant Technical Officers and Deputy Technical Officers are concerned, who are the only categories of persons who are now before us, the anomaly complained of, arose even in the year 1997 itself. But unfortunately, the respondents were not diligent enough as their counter parts, viz., those 57 industrial workmen, who approached the Tribunal in the year 2002 itself. Therefore, we are of the considered view that the respondents were guilty of delay and laches in seeking rectification of anomalies, that arose in the year 1997, by approaching this Court in the year 2007.

16. The question of delay and laches is sought to be over come by Mr. Siva, learned counsel for the respondents on two grounds, viz., (a) that pay is a recurring cause of action; and (b) that the 6th Central Pay Commission itself, while making recommendations, had proceeded on the presumption as though the post of Deputy Technical Officer carried the scale of pay of Rs.6500/--10,500/-.

17. It is no doubt true that pay is a recurring cause of action. But pay anomaly is not. Therefore, the first ground on which the learned counsel for the respondents seeks to overcome the issue of delay and laches cannot be accepted.

18. To deal with the second ground, it may be necessary to look at paragraph No.7.15.9 of the recommendations of the 6th Central Pay Commission. The same reads as follows:

“7.15.9 Security Printing Press

Technical Wing Officers in this Press are presently in the pay scale of Rs.6500-10500. A higher pay scale has been demanded for these posts. The Commission is of the view that a higher pay scale would need to be provided to these on account of the proposed merger of the pay scales of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500. Accordingly, the post of Technical Wing Officers shall be placed in the next higher pay scale of Rs.7450-11500 corresponding to the revised pay band PB-2 of Rs.8700-34800 along

with grade pay of Rs.4600. Higher pay scales on par with those existing in Secretariat have been demanded for ministerial posts in various Security Printing Presses. The Commission has already recommended parity between headquarters organizations and field officers in Chapter 3.1 of the report. The recommendation made therein shall apply in this case as well. Presently, post of Foreman (Printing) is in a higher scale of Rs.5500-9000 vis-à-vis its promotion post of Assistant Technical Officer that exists in the pay scale of Rs.5000-8000. This anomaly has been created as the Hon'ble Central Administrative Tribunal directed upgradation of the pay scale of Foreman (Printing) from the scale of Rs.4500-7000 to that of Rs.5500-9000. The Commission, in any case, has recommended merger of the scales of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500. This will place the posts of Foreman and Assistant Technical Officer in an identical scale. The post should, therefore, be merged. The next higher post of Dy. Technical Officer in the scale of Rs.6500-10500 shall consequently be upgraded to Rs.7450-11500 corresponding to the revised pay band PB-2 of Rs.8700-34800 along with grade pay of Rs.4600."

19. It is true that the 6th Central Pay Commission had gone on the footing that the post of Deputy Technical Officer carried a scale of pay of Rs.6500-10500/- and it also got subsequently upgraded to Rs.7,450-11,500/-. But it does not mean that the understanding on the part of the 6th Central Pay Commission gave scope for the respondents to seek in the year 2007, the rectification of an anomaly that arose in 1997. In fact, the recommendations of the 6th Central Pay Commission came probably after the respondents approached this Court. The respondents did not push their claim on the basis of the recommendations of the 6th Central Pay Commission.

20. Therefore unless an order is passed rectifying the anomaly, it cannot be presumed that there was probably a rectification of anomaly, as reflected in the understanding of the 6th Central Pay Commission.

21. To put it in simple terms, the anomaly that the respondents complained, arose with the issue of the notification of the Revised Pay-scale Rules, 1997 on 30.05.1997. There were other employees holding

other posts in the same organization, who were diligent enough to approach the Tribunal in the year 2002, when under the guise of removing the anomaly, a further anomaly was created. But the respondents were not diligent enough to rack up the issue for a full period of 10 years from 1997 to 2007. The anomaly in the case of the respondents did not arise either on account of the Government Memo dated 10.02.2001 or on account of the decision of the Tribunal in O.A.No.382 of 2002. Therefore, the appellants are right in contending that after the expiry of the term of the Anomalies Committee, it is not possible to address the grievance of the respondents. If the respondents had taken up their cause at the appropriate time, it would have been possible to refer the matter to the Anomalies Committee. They came to Court only after the Anomalies Committee itself got dissolved. Therefore the order of the learned Single Judge cannot be sustained. Hence the writ appeals are allowed and the order of the learned Judge is set aside.

22. As a sequel, miscellaneous petitions pending in these writ appeals, if any, shall stand closed. There shall be no order as to costs.

V. RAMASUBRAMANIAN, J.

M. GANGA RAO, J.

13th November, 2017
Js.

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE M. GANGA RAO

WRIT APPEAL Nos.440 & 446 of 2017

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