

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

Civil Writ Petition No.29625-CAT of 2018

Date of decision: November 22, 2018

Union of India and others

...Petitioners

Versus

Central Administrative Tribunal and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr. Arun Gosain, Advocate
for the petitioners.

HARINDER SINGH SIDHU, J.

The Union of India and others have filed the present writ petition laying challenge to the order dated 14.11.2017 of the Central Administrative Tribunal, Chandigarh Bench in O.A. No.060/00314/2016, whereby the Original Application filed by respondent No.2 was allowed.

The primary grievance of respondent No. 2 was against the denial to him of the benefit of order dated 13.11.2003 whereby Section Officers of Central Civil Secretariat Services (CSS) were granted the Non Functional Pay (NFP) of Rs. 8000-275-13500/- on completion of four years approved service.

The applicant joined as Assistant in the Bureau of Police Research and Development, New Delhi, which is an attached office of the Ministry of Home Affairs on 24.07.1987 in the pay scale of Rs.425-700. He was promoted as Section Officer on 10.10.1996 in the pay scale of

Rs.2000-3500 revised to Rs.6500-10500 w.e.f. 01.01.1996. He was posted in the Central Forensic Science Laboratory, Calcutta. On 30.08.1999, he was transferred to the Central Forensic Science Laboratory, Chandigarh.

A Committee was constituted by the Head of the Department viz Director-cum-Chief Forensic Scientist as per the recommendations in the 5th Pay Commission to examine the matter with regard to grant of Non-Functional Pay of Rs.8000-275-13500 to the Section Officers working under the Directorate of Forensic Science (DFSS). The Committee recommended the implementation of NFP scale of Rs.8000-275-13500 to Section Officers of DFSS as it found that the administrative duties and responsibilities of Section Officers of DFSS were equal to Section Officers of CSS cadre. The recommendation was accepted. The applicant was granted the benefit vide order dated 25.5.2004. He was placed in the pay scale of Rs.8000-275-13500 w.e.f. 10.10.2000. The actual benefits were granted w.e.f. 3.10.2003. Later, the applicant went on deputation to the Debt Recovery Tribunal as Recovery Officer on 19.10.2006. While on deputation, order dated 8.8.2007 was passed withdrawing the earlier order dated 25.05.2004. When the representation filed by the applicant against the withdrawal yielded no positive response, he filed OA No.817-CH-2007, which was disposed of by directing the official respondents to take up the case of the applicant for grant of Non-Functional Grade of Rs.8000-13500 with the Ministry of Home Affairs and Ministry of Finance in the light of the judgment rendered in OA No.377/2006 dated 03.03.2014 *S.C. Karmakar and others Vs. Secretary, Ministry of Finance Department of Expenditure.*

Pursuant thereto order dated 18.01.2016 was passed rejecting

the claim of the applicant for the following reasons:-

“That the Central Forensic Science Laboratory, Chandigarh is under the administrative control of Directorate of Forensic Science Services, which is not a Headquarter Service.

That since the Directorate of Forensic Services is an attached office of the MHA, no parity can be drawn between the post of Section Officer of CSS and the Section Officer of DFSS and DOPT's order dated 13/11/2003 is also not applicable to the DFSS.”

Thereafter the present OA was filed.

The Tribunal has relied on an order dated 09.03.2017 of the Ernakulam Bench passed in OA No.180/00868/2014 titled N.Velayudhan and others Vs. Union of India and others wherein it has been held that there was no justification for denying officials not working in the Secretariat parity with those working in the Headquarter/ Secretariat. It was noticed that no case had been made out that the nature of duties performed by the Section Officers in the lower formations were any different from those performed by the Headquarter officers. It was further observed that in fact the work in the non-secretariat has not only equalled the nature of duties and services in headquarter offices, but has overtaken the same on account of decentralization and expansion of organizations in the years after independence.

In the context of the present case the Tribunal noted that no case was made out that the subordinate offices do not perform any functions undertaken by the headquarter. It was observed:

“8. Hence the doctrine of equal pay in equal work for persons recruited with same qualification by the

same examination would be applicable. No dispute on qualitative difference in work or responsibility is argued for treating applicant and CSS officials differently as regards drawl of NFP is concerned. The mode of recruitment and service conditions being the same the applicant cannot be disentitled from the doctrine of equal pay for equal work, considering the fact that they are discharging the same functions and responsibilities. We are of the opinion that when two classes of employees perform same nature of functions, the denial by the State of equality of pay would be violative of Articles 14 & 16 of the Constitution as the State is perpetuating a discrimination in prescribing different scale of pay for same nature of work. The Court finds that the classification made by the State in giving different treatment to the two classes of employees is not founded on a rational basis having nexus with the object sought of extracting work out of similarly placed persons.”

The mode of recruitment, qualifications, functions and responsibilities of the two classes being same the Tribunal rightly held that the applicant could not be denied the benefit of the grant of NFPS as per letter dated 13.11.2003.

There is no ground to interfere with the impugned order.

Dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

November 22, 2018
Atul

Whether Speaking / Reasoned	Yes/No
Whether Reportable	Yes / No