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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 25.10.2018

+ W.P.(C) 12926-27/2006

TECHNICAL EXECUTIVE OFFICERS A Petitioner
Through: Mr.Shanker Raju and Mr.Nilansh
Gaur, Advocates.

versus

UNION OF INDIA & ORS Respondents
Through: Mr.Kanish Rana for Mr.Anuj
Aggarwal, ASC for R-2 and R-3.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE PRATEEK JALAN

S. RAVINDRA BHAT, J.(ORAL)

1. The petitioner association's grievance is that the Central Administrative Tribunal (CAT) by its impugned order rejected the claim made for parity of pay scales as between various cadres of the Motor Vehicle Department in the NCT of Delhi (Motor Licensing Officers (MLOs), Motor Vehicle Inspectors (MVIs), Road Safety Inspectors (RSIs) and Driving Test Inspectors (DTIs). It was argued that the pay scales of these cadres, were identical with those granted to public employees holding similar or identical posts in the Motor Vehicle Department in other States and Union Territories till the point of time after 01.01.1973 when the pay scales were revised by virtue of the 3rd Pay Commission's recommendations. The petitioner complains that the point of parity in respect of all these four

cadres, within the Union Territory of Delhi in its Motor Vehicle Department is that all such officials are given remunerations in lower pay scales than their counterparts in the rest of the country. It is contended that the work performed by these employees in the concerned cadre in the Motor Vehicle Department in Delhi is closely similar, if not entirely identical, with those such counterparts in such other States and Union Territories. The petitioner association relied upon a chart, which is produced along with the written note/synopsis filed by the counsel. The tabular statements are reproduced as below:

Registering/Licensing Authority (ARTO/MLO)

Group 'B' Officers of states with designation	2 nd Pay Commission	3 rd Pay Commission	4 th Pay Commission	5 th Pay Commission	6 th Pay Commission
Gujrat (ARTO)	350-575	650-1200	2200-4000	8000-13500	15600-39100 GP 5400
Tamil Nadu (ARTO)	350-575	650-1200	2200-4000	8000-13500	15600-39100 GP 5400
Maharashtra (ARTO)	-	650-1200	2200-4000	7450-11500 upto 30/11/2008 10000-15200 w.e.f. 1/12/2008	15600-39100 GP 5400
Orrisa (ARTO)	350-575	650-1200	2200-4000	8000-13500	15600-39100 GP 5400
Uttar Pradesh (ARTO)	350-575	650-1200	2200-4000	8000-13500	15600-39100 GP 5400
Lakshdeep (UT)	-	-	2200-4000	10000-15200	15600-39100 GP 6600
Delhi (MLO)	375-650	650-960	2000-3200	6500-10500	9300-34800 GP 4600

MVI/HOI (Inspecting Authority)

Group 'C' Inspectors of states with designation	2 nd Pay Commission	3 rd Pay Commission	4 th Pay Commission	5 th Pay Commission	6 th Pay Commission
Gujrat	325-475	550-900	2000-3200	6500-10500	9300-34800 GP 4600
Tamil Nadu	325-475	550-900	2000-3200	6500-10500	MVI Gr.-I 9300-34800 GP 5100 MVI 9300- 34800 GP 4600
Maharashtra	325-475		2000-3200	5500-9000 upto 30/11/2008 7450-11050 w.e.f. 1/12/2008	9300-34800 GP 4600
Orrisa	325-475	550-900	2000-3200	6500-10500	9300-34800 GP 4600
Uttar Pradesh	325-475	550-900	2000-3200	6500-10500	9300-34800 GP 4600
Lakshdeep (UT)		550-750	2000-3500	6500-10500	9300-34800 GP 5400
Delhi	325-475	550-750	1600-2660	5000-8000	9300-34800 GP 4200

AMVI/DTI/RSI/DI (Inspecting Authority)

Group 'C' Asstt. Inspectors of states with designation	2 ND Pay Commission	3 rd Commission	4 th Commission	5 th Commission	6 th Pay Commission
Gujrat	270-435	425-600	1640-2900	5500-9000	9300-34800 GP 4200
Tamil Nadu	270-435	425-600	1640-2900	5500-9000	9300-34800 GP 4400
Maharashtra	-	-	1640-2900	5000-8000 Upto 30/11/2008 5500-9000	9300-34800 GP 4300

				w.e.f. 01/12/2008	
Orissa	270-435	425-600	1640-2900	5500-9000	9300-34800 GP 4200
Utter Pradesh	260-350	425-600	1640-2900	5500-9000	9300-34800 GP 4200
Delhi	DTI 205-280 RSI 205-280 DI -	380-560 425-600 425-700	1320-2040 1350-2200 1400-2300	4000-6000 4500-7000 4500-7000	5200-20200 GP 2800 5200-20200 GP 2800 5200-20200 GP 2800

Ministerial Staff (Non Technical)

Name of Post	Pay Scale in 4 th CPC	Pay Scale in 5 th CPC	Pay Scale upgraded (redesignated)	Pay scale in 6 th CPC
Junior Accounts Officer	1640-60-2300-75-2900	5500-9000	6500-10500 w.e.f. 08/10/2009 re-designated as AAO	9300-34800 GP 4800
Superintendent/Gr..I (DASS)	1640-60-2300-75-2900	6500-10500	8000-13500 on completion of 4 years of regular service	15600-39100 GP 5400 vide Service I Branch orders No.56 dated 03/02/2015.
Gr.II (DASS)/Head Clerk	1400-2300	5500-9000	Pay Scale 9300-34800 GP 4200	9300-34800 GP 4600 notified/upgraded vide Services I Branch orders No.57 dated 03/02/2015 w.e.f. 01/01/2006
UDC/Gr.III Stenographers	330-560	4000-6000	5200-20200 GP 2400	9300-34800 GP 4200 notified/upgraded vide Services I Branch orders No.58 dated 03/02/2015 w.e.f. 22/06/2011.

2. The petitioner association had earlier approached the Tribunal complaining that its representations were not considered. The earlier application to the Tribunal (OA No.1529/2002) was disposed of with directions to the respondent i.e. the Government of NCT of Delhi and also the Central Government to consider the matter fully and indicate their response. Pursuant to these directions on 30.04.2004 the Government of NCT of Delhi rejected the claim for relief inter alia stating as follows:

7. Otherwise also, on comparison of the nature of duties and jobs performed by RTOs/ARTOs/Inspectors (Regional Transport Officer/Assistant Regional Transport Officer/inspectors) with that of the MLOs/MVIs/Inspectors etc. of the Transport Department, GNCTD (i.e. members of the Association) it is observed that the scope of the same is much wider in the case of the former than in the latter. For instance, an RTO in other States is called 'Regional transport Officer' and the functions he performs are as under:

- i) Issuance of driving licenses and renewals thereof*
- ii) Registration of new vehicles and transfer of ownership of vehicles*
- iii) Ensuring rules and regulations on roads.*
- iv) Maintenance of high-way-traffic*
- v) Enforcement of various provisions of Motor Vehicle Act*
- vi) Conducting Public awareness programmes by way of various campaigns and safety drives*
- vii) Preparation of Challans in respect of erring drivers and vehicles*
- viii) Checks on over loaded vehicles*
- ix) Impounding of vehicles founding violating of rules*
- x) Issuance of permits to stage carriages, national permits to commercial and tourist vehicles, issuance of permits to Taxi/Autos etc.*
- xi) Inspection of Vehicles*

8. Of course, in the discharge of above functions, he is

assisted by a couple of ARTOs and Inspectors, but, nevertheless, he performs multifold functions, whereas a 'Motor Licensing Officer' (commonly called MLO) of the Transport Department of GNCT of Delhi, performs only limited functions, in as much as he is basically a Licensing Officer, in the sense that he is responsible for only in respect of the functions mentioned at Sr. No. (i) & (ii) above. He is not at all responsible for maintenance of highway-traffic or enforcement activities of various other kinds. Even in the discharge of his limited aforesaid functions, he is assisted by Motor Vehicle Inspectors (MVIs /HQIs etc.). Moreover, activities of the Transport Department; of Delhi are highly decentralized in as much as whole of the National Capital Territory of Delhi has been divided into 9 zones, (each headed by an MLO) who is assisted by a couple of inspectors (MVI/HQI etc.); besides, there is a separate full-fledged Enforcement wing manned by Enforcement Officers/Inspectors/Sub Inspectors/Asst. sub Inspectors/Constable etc.; for pollution control, we have Pollution control Officers/Pollution Level Test Inspectors etc. As regards certification of fitness of commercial vehicles, there is another Unit called Auto Rickshaw Unit and Vehicle Inspection Unit at Burari. In other words nature and scope of duties of MLOs/MVIs etc. of the Transport Department of Delhi is much less in comparison to that of RTOs/ ARTOs/Inspectors of other States of the country.

9. It is also observed that the case of the petitioners had been duly considered by the IV and V Central Pay commission and Ministry of Finance of Govt. of India and since no recommendations whatsoever had been received by this department from the aforesaid higher authorities, it is safely presumed by the department that the case of the petitioners had been duly considered but rejected.

10. In view of the above reasons viz. non recommendation of higher pay scales to the members of

the Association by the Central pay Commission and the difference in the scope and nature of their duties vis- a-vis. those of their counter parts in other States, the department is constrained to hold that there is no merit in the representations dated 30.12.1996 and 30.4.2002 of the Technical Executive Officers' Association; the said representations are, therefore, rejected.

11. Here it may not be out of place to mention that a similar representation was received by the Department from officers of its Enforcement Branch, also and the same was forwarded to the Ministry of Home Affairs, Govt. of India, who in turn after consultation with their integrated Finance Division vide I.D. Note No. F. 4267/AS 8bFA (H) dated 27.2.2004 rejected the said representation on consideration as above.

12. This issues with the prior approval of the Commissioner-cum- Secretary (Transport), Govt. of NCT of Delhi.

3. Mr. Raju, learned counsel for the petitioner urges that the Tribunal failed to address the relevant facts and relied upon the materials placed before it – in the form of the tabular statements indicating the pay scales granted to various cadres in the different States (Uttanchal, Gujarat, Utter Pradesh, Maharashtra, Orissa, Tamil Nadu etc.). It is contended that the petitioner association had relied upon the relevant material such as the conditions of service, the nature of duties that had to be performed by the members of the association, belonging to different cadres within the Government of NCT of Delhi, the onerous nature of the responsibilities – for which purpose reliance was placed upon certain statistics sourced under the Right to Information Act. Learned counsel emphasized that the work performed by the officials in these four cadres were compared favourably with the work performed by their counterparts in other States. For this

purpose he again relied upon the replies furnished to the queries under the RTI Act.

4. It was urged that the decisions of the Supreme Court have consistently emphasized that equal pay for equal work is now a facet of non-discrimination under Article 14 of the Constitution. Counsel stated that the petitioner's members have been denied pay parity despite the increasing volume of traffic and the increased workload, in Delhi. By way of illustration, it was pointed out that the strength in the cadre of MLOs at the relevant time in Delhi when the representations were made, were 14 as against a heavy work load; whereby about 40 lakhs registrations/licences were issued. It is submitted that according to the information available, Delhi handles traffic volumes which are more than the sum total of what is dealt with by all the other metropolises together. Counsel, therefore, emphasized that non consideration of vital information by the CAT is entirely erroneous and on a fair application of the principle of equal pay for equal work and the petitioners are entitled to the relief claimed i.e. the pay parity with their counterparts w.e.f. 01.01.1996.

5. The respondents urged that the duties of the Motor Vehicle Officers in the various cadres of other states and UTs are not similar to that performed by officers in Delhi. It is argued in this regard that RTO and ARTO of Transport Department of other States perform multifarious functions which include issuance of driving licence, registration of new vehicles, transfer of ownership ensuring compliance of rules and regulations on roads, maintenance of highway traffic and conducting public awareness drive by way of campaigns etc. On the other hand the employees in the Motor Vehicles Departments in Delhi such as MLOs perform limited functions i.e.

confined to issuance of driving licence and registration of new vehicles. Learned counsel highlighted that even in this limited function the MLOs are assisted by MVIs, RSIs and DTIs in their work. Furthermore, the MLOs may optionally be deployed for maintenance of highway traffic; however, there is no compulsion for them to perform such duties ordinarily.

6. It is also stated that besides the work of the transport department Delhi is decentralized and the NCT is divided into 13 Zonal offices, STA Branches, Vehicle Inspection Unit etc. Furthermore, Delhi has a full-fledged enforcement wing unlike other States where such duties are combined in the office of the RTOs. As regards certification of fitness of commercial vehicles, there is another Unit called Auto Rickshaw Unit and Vehicle Inspection Unit. The work of issuance of Stage Carriage and National Permits is dealt with by the State Transport Authorities. It was thus urged that the parity or identity in nomenclature does not automatically translate into parity in duties or the onerous of the functions actually performed.

7. Section 213 of the Motor Vehicle Act, 1988 to the extent it is relevant is extracted below:

213. Appointment of motor vehicles officers.—(1) The State Government may, for the purposes of carrying into effect the provisions of this Act, establish a Motor Vehicles Department and appoint as officers thereof such persons as it thinks fit.

(2) Every such officer shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860).

(3) The State Government may make rules to regulate the discharge by officers of the Motor Vehicles Department of their functions and in particular and without prejudice

to the generality of the foregoing power to prescribe the uniform to be worn by them, the authorities to which they shall be subordinate, the duties to be performed by them, the powers (including the powers exercisable by police officers under this Act) to be exercised by them, and the conditions governing the exercise of such powers.

(4) The Central Government may, having regard to the objects to the Act, by notification in the Official Gazette, prescribe the minimum qualifications which the said officers or any class thereof shall possess for being appointed as such.

8. As is evident, the petitioners' request for pay parity was rejected by the Government of NCT of Delhi (GNCTD), on the basis of material given to it. The GNCTD concluded that there was no similarity in the performance of duties. Mainly, the disparity noted was with respect to multifariousness of tasks performed by the RTOs – as Motor Vehicle Officers are described in the other States. Saliently the Government of NCT of Delhi in the rejection letter of 30.04.2004 noticed that RTOs in other States, (unlike MLOs in Delhi) not only issue driving licences and register new vehicles, but also ensure compliance of rules and regulations on road and are involved in the maintenance of highway traffic and enforcement of the Motor Vehicles Act and also conduct and carry out other tasks such as conducting public awareness campaigns, preparing challans in respect of erring drivers and checking overloaded vehicles and impounding them and issue permits to stage carriages etc. On the other hand, the employees and the officials of the NCT of Delhi do not perform such varied and multiple tasks. Even with respect to the job of issuance of licence and registration of new vehicles, the MLOs are assisted by subordinate staff. Furthermore, the task of enforcement is largely performed by other agencies;

likewise the duties such as issuance of stage carriage permits etc. are entirely different and performed by a separate unit.

9. The highlight of the Government of NCT of Delhi's decision, therefore, appears to be that the multifariousness of the task or duties, which fall to the RTOs (broadly equivalent to MLOs in Delhi) and the unity of such responsibility in one office, is absent in Delhi. To this Court, this aspect is of crucial importance. For a claim of pay parity to succeed, not only the job description, but also qualifications, broad terms and conditions and the nature of duties performed are to be similar if not entirely identical. In this regard it is significant that even with regard to the prescription of minimum qualification, with respect to the position of MLOs, the State is empowered to frame the rules in the first instance; Section 213(4) of the Motor Vehicle Act empowers the Central Government if it chooses to frame such rules. Therefore, even with respect to the essential qualifications and other terms, the pattern of employment in each State or Union Territory appears to be different. The similarity or identity in nomenclature, or the fact that the statutory post is mandated in the Central enactment *per se*, therefore, cannot be translated into a legitimate and successful claim for pay parity across the country.

10. What this Court is asked now to undertake is a complex task of comparing not only the duties performed by the employees of the various States vis-à-vis those performed by the MLOs and other cadres (who are members of the petitioner association) but also to examine and compare the recruitment rules, the cadre strength, the educational qualifications and other terms and conditions – all of which are relevant for considering any claim for pay parity. This complex task is not for the Court to perform in judicial

review. The Court cannot take upon itself a primary decision making task which the Constitution enjoins it not to perform.

11. For the above reasons, the Court is of the opinion that there is no merit in the writ petition. It is accordingly dismissed.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

OCTOBER 25, 2018

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