

\$~18

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

Decided on: 15th January, 2019

+ W.P.(C) 4501/2002

SURJIT SINGH & ORS. Petitioners

Through: Mr.J.S.Mann & Mr.Vipul
Kumar Upadhyay, Advocates

versus

UOI & ORS. Respondents

Through: Mr.R.V.Sinha & Mr.A.S.Singh,
Advocates for R-1, R-2 & R-6.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J. (ORAL)

%

1. The petitioners have challenged the order dated 22.03.2002, whereby the Central Administrative Tribunal [hereafter referred to as "the Tribunal"] has dismissed their application [OA No.1567/1999], and thus rejected their claim for higher pay-scales in terms of the reports of the 5th Pay Commission.

2. The petitioners were appointed as Forest Guards under the Government of the Union Territory of Delhi at various times between 1958 & 1968. They were subsequently promoted as Deputy Forest Rangers, during the period 1988 to 1998, but claim that they were

denied the pay scale of Deputy Forest Rangers as recommended by the 4th & 5th Pay Commissions.

3. Although the 4th Pay Commission had recommended the pay scale of ₹1200-1800 for Deputy Rangers in Union Territories, the petitioners were placed in the pay scale of ₹950-1400. This was the recommended pay scale for Foresters, a post which had been abolished in the Union Territory of Delhi but existed in other Union Territories. Forest Guards were placed in the lower scale of ₹775-1025.

4. The report of the 5th Pay Commission dealt with these posts in paragraph 104.10 and *inter alia* made the following recommendations:

“the posts of Forest Guards and Forest Protection Force, both of which are presently in the scale of pay of Rs.775-1025, may be merged and upgraded at par with a police constable in the scale of Rs.825-1200 with two advance increments at the time of initial appointment. Simultaneously, the qualification prescribed for the posts may also be enhanced to matriculation, on par with that of constables.

.....

twelve and a half percent of the total number of existing posts of Forest guards and Forest Protection Force in all the union territories may be upgraded to those of Head Forest Guards and placed in the scale of Rs.975-1660 at par with a head constable.

the post of Forester, the education qualification for which is similar to that prescribed for the post of Assistant Sub-Inspector (SSC or equivalent), may be placed in the scale of pay of ₹1320-2040.

a post corresponding to that of Deputy Ranger does not exist in the police department. In the context of the proposals to equate the lower posts of forest staff to police personnel and in order to

maintain vertical relativities this post may be placed in the scale of ₹1600-2660.”

5. Pursuant to this Report of the 5th Pay Commission, the pay scale of Forest Guards was revised to ₹2750-70-3800-75-4400 [with two advance increments], that of Foresters to ₹4000-100-6000 and that of Deputy Rangers to ₹5000-150-8000. The upgraded post of Head Forest Guards were placed in the scale ₹3200-85-4900.

6. Mr.J.S.Mann, learned counsel for the petitioners contends that the petitioners have, after the 5th Pay Commission been placed in the replacement scale of ₹3050-4590, which is not only lower than Deputy Rangers and Foresters, but also lower than the scale for Head Forest Guards [₹3200-85-4900]. He submits that Deputy Rangers in Delhi are entitled to parity with Deputy Rangers in other Union Territories, and that, even under the 4th Pay Commission, they were in the same scale as Foresters in other Union Territories. Mr.Mann argues that, in any event, the petitioners are certainly entitled to a higher pay scale than Head Forest Guards, which is merely an upgradation of a proportion of Forest Guards, the feeder post from which the petitioners were promoted.

7. In the counter affidavit filed by it, the Government of NCT of Delhi disputes the equivalence between the post of Deputy Forest Ranger in Union Territory of Delhi vis-a-vis the same post in other Union Territories on the ground that the intermediate post of Forester has been abolished in Delhi. Thus, Deputy Rangers in Delhi are promoted from the post of Forest Guards whilst in other Union Territories, Forest Guards are promoted to the post of Forester, which

in turn is the feeder post for Deputy Rangers. However, the GNCT of Delhi has further stated as follows:

“It is submitted that on the basis of pay scales and promotional channel, the present petitioners are covered under the category of Forester in pay scales of ₹950-1400/-. The Forest Department had fixed the pay scale of Deputy Rangers on the basis of pre-revised pay scale and not on the basis of designation. Finance Department objected to this on the basis of the condition given in the part C and given replacement scale of Rs.950-1400 to Rs.3050-4590 (Part A of the schedule) till the action on the provision is over. Thus there is no arbitrariness or hostile discrimination as alleged.”

8. Having considered the contentions of the parties, we are of the view that the petitioners cannot claim the pay scale accorded to Deputy Rangers in other Union Territories. The intermediate post of Forester was admittedly abolished in Delhi in the year 1980, giving rise to a significant distinction between the two. Further, although the petitioners were all promoted to the post of Deputy Rangers after the 4th Pay Commission, they did not claim such equivalence at that stage but were content with the pay scale applicable to Foresters in other Union Territories. The petitioners' claim for the scale of the Deputy Rangers under the 4th and 5th Pay Commission is therefore rejected.

9. However, the petitioners have a further grievance as far as the implementation of the 5th Pay Commission Report is concerned, inasmuch as they have not even been granted parity with Foresters. In our view, there is no rationale for granting them a lower pay scale than Foresters, which is what they were drawing under the 4th Pay Commission. This is virtually admitted by the Government of NCT of Delhi in the counter affidavit extracted above. The absurdity of this

situation is demonstrated by the fact that the petitioners have been promoted from the post of Forest Guards, but now draw a pay scale lower than Head Forest Guards, which is an upgraded post of 12 ½ % of Forest Guards. We, therefore, hold that the petitioners are entitled to be placed in the same pay scale as Foresters in other Union Territories even after implementation of the 5th Pay Commission.

10. In the result, the respondent/Government of NCT of Delhi is hereby directed to revise the pay scale to which the petitioners are entitled. Instead of the pay scale which they are fixed and fitted in [₹3050-75-3950-80-4590], they shall be entitled to be fixed in the pay scale of ₹4000-100-6000 i.e. equivalent to that of the Forester in other Union Territories. The petitioners shall, therefore, be entitled to notional fixation of salary and allowances, from the dates they were entitled, prior to 01.01.1997, in the equivalent pay scales adopted by the Central Government, pursuant to the 4th Pay Commission's recommendations. Consequently, they shall also be entitled to the fixation of pay at the appropriate stage, upon coming into force of the CCS Rules, 1997.

11. The petitioners are entitled to pay fixation and fitment orders along with the arrears of salary, for the period of three years prior to the time the petitioners had approached the CAT, in July, 1999. Accordingly, they shall be entitled to arrears of salary for the immediately preceding three years, i.e. from 01.01.1996. Consequently, directions are issued to the respondent/Government of NCT of Delhi to work out the arrears of salary payable to the petitioners from 01.01.1996, as well as the consequent pension

fixation, arrears of pension etc. and ensure that these amounts are disbursed to them, within next three months. In case, these directions are not complied with, the respondents shall be liable to pay 12% interest upon such amounts, with effect from 30.04.2019.

12. The writ petition is partly allowed in the above terms.

Order *dasti*.

PRATEEK JALAN, J.

S. RAVINDRA BHAT, J.

JANUARY 15, 2019

'hkaur'



न्यायमेव जयते