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

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Date of decision: 03.12.2021

+ **W.P.(C) 10525/2020 and CM No.33296/2020**

SRINATH SASTRY, CHIEF CAMERAMAN, & ORS.... Petitioners

Through : Mr. Sanjeev Kumar, Adv.

versus

UNION OF INDIA & ORS. Respondents

Through : Mr. Alok Singh, Adv. for UOI.

+ **W.P.(C) 10964/2020 and CM No.34319/2020**

AMRIT PAL SINGH, & ORS.Petitioners

Through : Mr. Sanjeev Kumar, Adv.

versus

UNION OF INDIA & ORS. Respondents

Through : Mr. T.P. Singh, CGSC for UOI.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

[Physical Court Hearing/Hybrid Hearing (as per request)]

RAJIV SHAKDHER, J.: (ORAL)

1. These writ petitions are directed against a common judgment dated 06.03.2019, passed by Central Administrative Tribunal [in short “the Tribunal”], in O.A. Nos. 2647/2015 [concerning W.P.(C) No.10964/2020] and 3300/2015 [concerning W.P.(C) 10525/2020].

2. The petitioners were the original applicants before the Tribunal.

2.1. The petitioners’ grievance, which was articulated before the Tribunal, is, simply, this, that there was no pay parity between them and their counterparts, who were employed with Doordarshan, despite the same work being performed by them and their counterparts.

2.2. Most of the petitioners, at the relevant time, were working in the Films

Division, as Chief Cameraman. They were, thus, seeking pay parity with their counterparts, who were working as Cameraman Grade-I in Doordarshan.

2.3. It is not in dispute that both the Films Division as well as Doordarshan, are under the administrative control of the Ministry of Information and Broadcasting.

3. Mr. Sanjeev Kumar, who appears on behalf of the petitioners in the above-captioned matters, has referred to the counter-affidavit filed on behalf of the official respondents in W.P.(C) 10964/2020, wherein the following tabular chart has been set forth:

Pay Commission	Pay Scale of Cameraman in FD	Pay scale of Cameraman Grade-II in Doordarshan	Pay Scale of Chief Cameraman in FD	Pay Scale of Cameraman Grade-I in Doordarshan
III CPC	650-950	550-900	840-1200	650-960
IV CPC	2000-3200	1640-2900	2375-3500	2375-3500
V CPC	6500-10500	5500-9000	7500-12000	8000-13500
VI CPC	9300-34800 GP 4600	9300-34800 GP 4200	9300-34800 GP 4800	9300-34800 GP 5400

3.1. Based on the contents of the aforesaid extract, Mr. Kumar has pointed out that when the 3rd Central Pay Commission (CPC) recommendations were in vogue, the petitioners [i.e., Chief Cameraman] were placed in a higher pay scale, as compared to their counterparts, who were working as Cameraman Grade-I in Doordarshan.

3.2. It is asserted that at that point in time, the petitioners were in the pay scale ranging between Rs.840-1200, while Cameraman Grade-I were in the pay scale spanning between Rs.650-960.

3.3. According to Mr. Singh, pay parity was attained by the time recommendations made by the 4th CPC kicked in, and as a result, both Chief

Cameraman working in Films Division and Cameraman Grade –I, working in Doordarshan, were placed in the pay scale spanning between Rs.2375-3500.

3.4. It is Mr. Singh's contention that disparity in pay, *vis-à-vis* Chief Cameraman working in Films Division, occurred when the recommendations of the 5th CPC were accepted. It is contended that, at that point in time, the petitioners were placed in the pay scale ranging between Rs.7500-12000 while Cameraman Grade-I were placed in the pay scale spanning between Rs.8000-13500. This anomaly was corrected, at the time when 6th CPC recommendations kicked in.

3.5. At the time when the 6th CPC recommendations kicked in, although both Chief Cameraman and Cameraman Grade-I were placed in the same pay scale, their grade pay was different. While the Chief Cameraman working in Films Division were placed in the pay scale spanning between Rs. 9300-34800, they received a grade pay of Rs.4800, whereas the Cameraman Grade -I, though, placed in the same pay scale i.e., Rs.9300-34800, received a Grade Pay of Rs. 5400.

4. It is brought to our notice by Mr. Kumar that the issue with regard to pay parity, on account of the nature of work done being similar both by the Chief Cameraman in Films Divisions and Cameraman Grade-I in Doordarshan, was settled by the Supreme Court in the decision rendered in the matter of ***Y.K. Mehta and Ors. v. Union of India and Anr.***, AIR 1988 SC 1970.

4.1 In support of this contention, Mr. Kumar, in particular, relies upon paragraph 11 of the said judgment, which is extracted hereafter:

“.....11. We have gone through the averments in the writ petitions and those made in the counter-affidavits filed by the Director General of Doordarshan and we have no hesitation in holding that the petitioners perform the same duties as those performed by their counterparts in the Films Division. When two posts under two different wings of the same Ministry are not only identical, but also involve the performance of the same nature of duties, it will be unreasonable and unjust to discriminate between the two, in the

matter of pay. One of the Directive Principles of State Policy, as embodied in clause (d) of Article 39 of the Constitution, is equal pay for equal work for both men and women. The provision of Article 39(d) has been relied upon by the petitioners. The Directive Principles contained in Part IV of the Constitution, though not enforceable by any court, are intended to be implemented by the State of its own accord so as to promote the welfare of the people. Indeed, Article 37 provides, inter alia, that it shall be the duty of the State to apply these principles in making laws. Even leaving out of our consideration Article 39(d), the principle of "equal pay for equal work", if not given effect to in the case of one set of government servants holding same or similar posts, possessing same qualifications and doing the same kind of work, as another set of government servants, it would be discriminatory and violative of Articles 14 and 16 of the Constitution. Such discrimination has been made in respect of the petitioners, who are the Staff Artistes of Doordarshan, by not giving them the same scales of pay as provided to their counterparts in the Film Division under the same Ministry of Information & Broadcasting. The petitioners are, therefore, entitled to the same scales of pay as their counterparts in the Films Division...."

5. It is not in dispute that disparity in pay has crept in, on account of the recommendations made by the 7th CPC.

5.1. We may also note that the matter was referred to the Anomaly Committee, which made the following recommendations, *vide* its report dated 15.03.2011:

"The Committee found that the nature of duties and educational qualifications required for the posts of Chief Cameraman in Films Divisions and Cameraman Grade-I in Doordarshan are identical and therefore these cadres should have identical scales of pay. However, before the file is sent to Ministry of Finance, Joint Secretary (Films) stated that the reason for grant of higher pay scale of Rs.8000-275-13500 to Camerman Grade-I in the 5th CPC w.e.f. 01.01.1996 (paragraph No.73.51 of the 5th CPC) may be furnished."

5.2. Despite a favourable recommendation made by the Anomaly Committee, the respondent did not bring about pay parity and issued an office memorandum

dated 17.11.2014, which was assailed by the petitioners before the Tribunal.

5.3. The Tribunal, by way of the impugned judgment 06.03.2019, dismissed the original applications filed by the petitioners, based on the following rationale, set forth in paragraphs 11 and 12 of said order:

“.....11. The recommendations of the Anomaly Committee are definitely not binding on the respondents who are well within their right to consider them and take an appropriate decision. In the present case it was discussed with the Ministry of Finance and as per their advice, since the 7th CPC was already constituted the matter was referred to the 7th CPC for taking a holistic view in the matter. We find this to be a reasonable and justified course of action.

12. The 7th CPC as per the documents submitted by the respondents made the following recommendations:-

"11.25.30 In case of all the above posts/ cadres in the Films Division the Commission has received a general recommendation for upgradation from the ministry. The ministry has cited 'duties and responsibilities' or 'change in technology' as the basis for making the recommendation.

*11.25.31 The Commission; notes that the demands are in the nature of en-bloc upgradations in pay. **The Commission does not find sufficient justification for the recommendations made by the ministry.** The Commission therefore is recommending replacement levels for the above mentioned posts in the Cartoon Film Unit, Administrative Staff Wing, Production Manager's Section, Laboratory Wing, Camera Wing and Distribution Wing. As regards re-designation of post this can be decided by the ministry." (Emphasis supplied).....”*

6. Learned counsel for the respondents say that the work performed by the petitioners, who are employed in Films Division and the work carried out by Cameraman Grade -I, who are working in Doordarshan, is not identical, and, therefore, the equal pay for equal work principle would not apply in this case.

6.1. However, learned counsel for the respondents, cannot but accept, the fact that the Tribunal has not independently examined the material, which was placed on record by the parties [as is clearly evident from the judgment of the Tribunal]; the Tribunal has simply gone by the recommendations made by the 7th CPC.

6.2. The Tribunal, in doing so, has observed that the recommendations made by the Anomaly Committee are not binding. According to us, the same principle should have applied to the recommendations made by the 7th CPC. In other words, the Tribunal should have taken into account, the recommendations of both, Anomaly Committee as well as the 7th CPC, and thereafter, examined the material placed on record by the parties and come to an independent conclusion.

7. Since the aforesaid exercise had not been carried out by the Tribunal, we are of the view that the impugned judgment deserves to be set aside, and the matters, remanded to the Tribunal for a fresh adjudication.

7.1. It is ordered accordingly.

7.2. Having regard to the fact that the grievance of the petitioners is pending for quite some time, the Tribunal is requested to take up the matter, at the earliest.

7.3. In order to hasten the proceedings, learned counsel for the parties will appear before the Registrar of the Tribunal on 20.12.2021.

7.4. The Registrar will place the matters before the concerned Bench of the Tribunal, for a fresh adjudication.

7.5. Since pleadings are already complete, in our view, the matters can be listed for hearing straightaway; but this is a call that the Tribunal will take. In case, the Tribunal requires the parties to file further affidavits or documents, it will be free to issue such directions.

7.6. Needless to add, the observations made by us hereinabove will not impact the merits of the case.

8. The writ petitions are disposed of in the aforesaid terms. Consequently,

pending applications shall also stand closed.

9. Parties will act based on the digitally signed copy of this order.

10. The Registry will dispatch a copy of this order to the Tribunal.

RAJIV SHAKDHER, J

TALWANT SINGH, J

DECEMBER 3, 2021

aj/Pallavi