

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH
O.A No. 381/2010
Wednesday, this the 19th October, 2011.

CORAM

HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER

HON'BLE Ms. K NOORJEHAN, ADMINISTRATIVE MEMBER

1. Permanand Kumar,
S/o late Yugal Kishore Prasad,
Inspectors Post, Presently working as
Senior Manger (Business Development) in the cadre
of Assistant Superintendent of Post Offices
on adhoc basis, O/o the Postmaster General,
Northern Region, Calicut.
2. Chandrakanta Paladhi, S/o Anand Mohan Paladhi,
Inspector Posts (Business Development),
O/o the Postmaster General, Central Region,
Ernakulam-18.Applicants

(By Advocate Ms K Radhamani Amma with Mr O.V.Radhakrishnan, Senior)

v.

1. Union of India represented by
its Secretary,
Ministry of Finance,
Department of Expenditure,
New Delhi-110 001.
2. Director General of Posts,
Dak Bhavan, New Delhi.
3. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram.Respondents

(By Advocate Mr Millu Dandapani, ACGSC)

This application having been finally heard on 22.9.2011, the Tribunal on
19.10.2011 delivered the following:

O R D E R

HON'BLE Dr K.B.S.RAJAN, JUDICIAL MEMBER

Parity of pay scale of the Inspector (Posts) at par with that of Inspector of Income Tax, of Customs and Central Excise as also of the Assistants in the Central Secretariat Service is the main issue involved in this case.

2. The matter has been receiving the attention of the Pay Commission right from at least the Fourth Central Pay Commission and in fact it was at the recommendation of the Pay Commission that element of Direct Recruitment as applicable to the inspectors of the CBDT and CBEC etc., had been introduced. In fact ever since the same was introduced, there has been a common examination for all such posts conducted by the Staff Selection Commission. Further, in the wake of the sixth pay commission recommendation, the pay scale of Rs 5,500 - 9000 having been merged with the higher pay scale of Rs 6,500 - 10,500/- Pay Commission itself has stated that there has now been parity in the pay scale. While so, as late as in 2009, the Government has revised the grade pay of Inspectors of Income Tax, of CBDT and CBEC whereby there arose again certain disparity and it is this part of the disparity that has been agitated in this O.A. The OA has been contested by the respondents. Pleadings were all exchanged and finally the matter has been heard.

3. Senior counsel for the applicants succinctly presented the entire background of the case, the observations of the IV Central Pay Commission, report of the V Central Pay Commission and their recommendations relating to the mode of recruitment to the post of Inspector of Post Offices (I.P for short) as also the pay scale to be attached to the post, which coincided with the post of Inspectors in other Departments such as Income Tax, Central Excise and Customs, etc., He had brought to our notice the revision of pay scale for the post of Inspector of Post Office vide Annexure A-3 followed by the revision of Recruitment Rules to the said post, vide Annexure A-4, whereby the element of direct recruitment was introduced for the first time. This mode of recruitment apart from the mode of appointment by promotion to the said post of Inspector of Post Office in fact brought in complete parity of the posts of Inspectors with various other Departments.

4. Thus, the pay scale of I.P.O. on the one hand and that of inspectors in other departments such as Income tax, central excise, customs, custom preventive etc., had been Rs 5,500 - 9,000/- in the wake of the acceptance of the recommendations of the V Central Pay Commission. So far so good.

5. It was in 2004 that the Ministry of Finance (Department of Expenditure) had issued OM dated 21-04-2004 revising the pay scale of the Income Tax Inspectors, Inspectors of the Department of the Customs and Central Excise etc.,

vide Annexure A-5. The revision was from Rs 5,500 - 9,000/- to Rs 6,500 - 10,500/-. As hithertofore, identical pay scales were afforded to the Assistants and P.As in the Central Secretariat Services as well as Central Secretariat Stenographers Service (CSSS) as that for the Inspectors of the Income Tax etc., on 25th September, 2006, the DOPT issued OM No. 2029/2006 -CS II of date whereby the pay scale of Assistants and P.As in the CSS as well as CSSS had been revised to Rs 6,500 - 10,500. Annexure A-6 refers.

6. At the time the above upward revision took place, the recommendations of the VI Central Pay Commission were not published. Later on, the recommendations of the Pay Commission included merger of the pay scales of Rs 5,500 - 9,000/- and Rs 6,500 - 10,500/-. This would automatically bring in parity of pay scale of the Inspectors of Post Office and other Departments. The logical corollary to the merger as aforesaid is that for the next higher post i.e. Assistant Superintendent of Post Offices it would be the next higher pay i.e. Rs 7,450 - 11,500/-.

7. On 13-11-2009, the Ministry of Finance, Department of Expenditure (Implementation Cell) issued another OM whereby posts which were in the pre-revised scale of Rs 6,500 - 10,500 as on 01-01-2006 and which were granted the normal replacement pay structure of grade pay of Rs 4,200/- in the pay band PB 2 will be granted grade pay of Rs 4600 in the pay band PB 2 corresponding to the pre-revised pay scale of Rs 7450-11500 w/e/f/ 01-01-2006. And, if a post already existed in the pre-revised scale of Rs 7450-11500, the posts being upgraded from the scale of Rs 6500 - 10500 should be merged with the post in the scale of Rs 7450 - 11500/-.

8. As stated earlier, the pay scale of Income Tax Inspectors, Inspectors of Customs and Central Excise etc., had undergone an upward revision from Rs 5,500 - 9000 to Rs 6,500 - 10500 vide OM dated 21-04-2004. Thus, the above enhancement of grade pay from Rs 4,200 to Rs 4,600 gave an edge to the inspectors of Income Tax, Central Excise, and others in respect of whom the provisions of OM dated 21st April, 2004 applied. In fact, even for the Assistants and the PAs of the Central Secretariat Services as well as Central Secretariat Stenographers services, the above provision would apply since in their case also, the pay scale stood revised upwardly at Rs 6,500 -10,500 as on 01-01-2006. In so far as the Inspector of Posts is concerned, their pay though would be in the PB2 (9,300 - 34,800), the grade pay would be only Rs 4,200 as against Rs 4,600 in respect of their counterparts in the other departments.

9 The above difference in the grade pay of inspector of post offices resulted in the Inspectors of Post Offices to claim pay parity with their counterparts. Justification for the same were, according to them, adequate right from the modes of recruitment as also functional responsibilities. For example, the Assistants, the S.I. in CBI, the Asst. Enforcement Officer, the Inspector of Income Tax, the inspectors of Central Excise, the Inspector (Preventive Officer),

Inspector (examiner) and the Inspectors of Posts are all having the same common Combined Graduate level examination conducted by the Staff Selection Commission and in fact for the year 2006 exam, the cut off marks for various posts varied from 423 (Inspector Central Excise) at the lower side to 508 (Asst. Enforcement Officer) at the higher side. For Inspector of posts the cut off marks were 433 which is more than that of for Inspector Central Excise. Annexure A-14 refers. Further, according to the applicants, the post of Inspector of Post Offices is a base level managerial post with onerous functional responsibilities of a large magnitude. In their internal note, the Ministry of Communication & Information Technology of the Department of Posts, the administrative ministry itemized the justifications vide Annexure A-21. The note was approved at the higher level of Member (P) and the Secretary of the Department of Posts. The matter was, however, dealt with, at the level of Joint Secretary in the Ministry of Finance, who had opined as under, vide note dated 25-01-2010:-

"Further, the post of Inspector (Posts) cannot be compared with the post of Assistant of CSS/Inspectors and analogous posts in CBDT and CBEC. The hierarchical structure in respect of Inspector (Posts) is not comparable to that of Assistants of CSS/Inspectors and analogous posts in CBEC and CBDT. Only Group B posts in the Department of Posts are comparable to those of Group B posts in CSS/CBEC/CBDT. Superintendent (Posts) has been placed in the grade pay of Rs 4,800 in pay band PB 2 and grade pay of Rs 5400 in pay Band PB 2 after completion of 4 years service at par with CBEC/CBDT. The Sixth CPC has specifically recommended the grade pay of Rs 4600 in the pay band PB 2 for Assistant Superintendent (Post Office). In the circumstances, it has not been found feasible to agree to the proposal for upgradation of the grade pay of Inspector (Posts) from Rs 4200 to Rs 4600 in the pay band PB-2."

10. On a further reference from the administrative Ministry, the Ministry of Finance, vide their note dated 08-03-2010 opined as under:-

The proposal has been considered in this Department. In this connection, the administrative Department is intimated that neither on the basis of functional justification offered by the Department of Post, nor on account of any pre-existing relationships, is it feasible for this Department to agree to the proposal of Department of Post to upgrade the pay scale of Inspectors (Posts). Accordingly, Inspectors (Posts) may be placed in the revised pay structure of grade pay of Rs 4200 in the pay band PB-2.

11. As nothing concrete could be achieved in respect of pay parity, the applicants herein have come up before the Tribunal through this OA seeking the following reliefs:-

i) To declare that the applicants are legally eligible and entitled to grant of the revised pay structure of Grade Pay of Rs.4600/- in the Pay Bank PB-2 which were granted by way of normal replacement pay structure of Grade Pay of Rs.4200/- in the Pay Bank PB-2 in terms of Annexure A-9 Office Memorandum dated 13.11.2009 and denial of it to the applicants is arbitrary, discriminatory and violative of Articles 14 and 16(1) of the Constitution of India.

ii) To issue appropriate direction or order directing the respondents to grant the applicants 1 and 2 the revised pay structure of Grade Pay of Rs.4600/- in the Pay Bank PB-2 as he has been granted to Inspectors in CBDT/CBEC and Assistants in Central Secretariat Service recruited through Combined Graduate Level Examination Scheme A by the Staff Selection Commission with effect from their date of entitlement with consequential benefits including arrears of pay and allowances within a time frame that may be fixed by this Tribunal.

12. The senior Counsel for the applicants has relied upon the following decisions in support of the case of the applicants:-

- (a) AIR 1973 SC 1088
- (b) (2006) 9 SCC 406
- (c) AIR 1984 SC 1221
- (d) (1993) 1 ASCC 182
- (e) (1995) Supp (3) SCC 528
- (f) (1995) 5 SCC 628.

13. Counsel for the Respondents had referred to the reply and other documents filed. None of the facts have been disputed. The only contention of the respondents is that it cannot be stated that the posts of Inspector of Post Offices and those of the other Departments are identical in all respects.

Para 7 of their counter reads as under:-

"7. It is submitted that there is no comparison between the Inspector Posts and Inspectors in CBDT as far as their hierarchy is concerned. In Department of Posts, the Inspectors are elevated to Higher Selection Grade which is designated as Assistant Superintendents which is now a Group B Gazetted post carrying a Grade Pay of Rs.4600 and from there to Postal Superintendent Service Group-B carrying a grade pay of Rs.4800. However, in the CBDT/CBEC, there is no such intermediary higher grade post and they are elevated to Superintendents Customs and Central Excise or ITO carrying a grade pay of Rs.4800. The applicants are conveniently ignoring this crucial difference and are trying to establish similarity on par with the Assistants working in Central Secretariat Service, Armed Force Headquarters Services, Indian Foreign Service B and Railway Board Secretariat Service and Personal Assistants in Stenographer Services which is not correct. Here also, the Assistants in their hierarchy is elevated to the rank of Section Officer who is placed in Rs.4800 and there is no

intermediary promotion post between Assistants and Section Officers of the Central Secretariat Service. The nature of duties assigned to Assistants is also quite different from the duties assigned to Inspector (Post). This point also establishes that there is no comparison between Central Secretariat; Service and those of Inspectors of Department of Posts and the O.A is liable to be dismissed as devoid of merits, on these grounds alone."

14. Again, as regards the considered view of the Department of Posts which in all its sincerity took up the matter with the Ministry of Finance, the respondents had tried to dilute their support by stating that the same was only in the nature of recommendations!

15. He had also referred to the details as contained in the additional reply and second additional reply.

16. Counsel for the respondents relied upon the decision of the Apex Court in (a) (2007) 7 SCC 472 and (b) (2005) 6 SCC 764.

17. Arguments were heard and documents perused. At the very outset, while dealing with the subject the Tribunal keeps in mind the dictum of the Apex Court both defining and confining the extent of judicial interference in matters of fixation of pay scale, as contained in the case of Union of India v. S.Thakur, (2008) 13 SCC 463 which is as under:-

"There is no dispute nor there can be any, to the principle that fixation of pay and date from which the benefit of revised pay scale would be admissible is the function of the executive and the scope of judicial review of such an administrative decision is very limited. However, it is equally well settled that the courts would interfere with the administrative decisions pertaining to pay fixation and pay parity as well as the date from which the revised pay scales would be made applicable if it is found that such a decision is unreasonable, unjust and prejudicial to a section of the employees."

18. It has also, in an earlier case of K.T. Veerappa v. State of Karnataka, (2006)9 SCC 406, been stated as under:-

"There is no dispute nor can there be any to the principle as settled in State of Haryana v. Haryana Civil Secretariat Personal Staff Assn. that fixation of pay and determination of parity in duties is the function of the executive and the scope of judicial review of administrative decision in this regard is very limited. However, it is also equally well settled that the courts should interfere with administrative decisions pertaining to pay fixation and pay parity when they find such a decision to be unreasonable, unjust and prejudicial to a section of employees and taken in ignorance of material and relevant factors."

(Also see Haryana State Minor Irrigation Tubewells Corporation v. G.S. Uppal, (2008) 7 SCC 375)

19. Again, in State of Bihar v. Bihar Veterinary Association, (2008) 11 SCC 60, the Apex Court has held as under :

"For finding out whether there is complete and wholesale identity, the proper forum is an expert body and not the writ court, as this requires extensive evidence. A mechanical interpretation of the principle of equal pay for equal work creates great practical difficulties. The courts must realise that the job is both a difficult and time-consuming task which even experts having the assistance of staff with requisite expertise have found it difficult to undertake. Fixation of pay and determination of parity is a complex matter which is for the executive to discharge. Granting of pay parity by the court may result in a cascading effect and reaction which can have adverse consequences." (emphasis in original)

20. In yet another decision in the case of State of Haryana v. Haryana Civil Secretariat Personal Staff Association, (2002) 6 SCC 72, the observation of the Apex Court is as under:-

"In the context of the complex nature of issues involved, the far-reaching consequences of a decision in the matter and its impact on the administration of the State Government, courts have taken the view that ordinarily courts should not try to delve deep into administrative decisions pertaining to pay fixation and pay parity. That is not to say that the matter is not justifiable or that the courts cannot entertain any proceeding against such administrative decision taken by the Government. The courts should approach such matters with restraint and interfere only when they are satisfied that the decision of the Government is patently irrational, unjust and prejudicial to a section of employees and the Government while taking the decision has ignored factors which are material and relevant for a decision in the matter. Even in a case where the court holds the order passed by the Government to be unsustainable then ordinarily a direction should be given to the State Government or the authority taking the decision to reconsider the matter and pass a proper order. The court should avoid giving a declaration granting a particular scale of pay and compelling the Government to implement the same. As noted earlier, in the present case the High Court has not even made any attempt to compare the nature of duties and responsibilities of the two sections of employees, one in the State Secretariat and the other in the Central Secretariat. It has also ignored the basic principle that there are certain rules, regulations and executive instructions issued by the employers which govern the administration of the cadre."

21. While exercising the jurisdiction, what the Tribunal or Court has to look into in respect of fixation of pay scale has been spelt out by the Apex Court in the case of State of Madhya Pradesh v. Ramesh Chandra Bajpai, (2009) 13 SCC 635, wherein it has been stated as under:-

The court has to consider the factors like the source and mode of recruitment/appointment, qualifications, the nature of work, the value thereof, responsibilities, reliability, experience, confidentiality, functional need, etc. In other words, the equality clause can be invoked in the matter of pay scales only when there is wholesale identity between the holders of two posts.

22. In a more recent case of Uttar Pradesh Land Development Corporation v. Mohd. Khursheed Anwar, (2010) 7 SCC 739, earlier reference to Randhir Singh case was referred to and the Apex Court has held as under :-

In Dayanand case the Court observed that the ratio of Randhir Singh case has not been followed in later judgments and held that similarity in the designation or quantum of work are not determinative of equality in the matter of pay scales and that before entertaining and accepting the claim based on the principle of equal pay for equal work, the court must consider the factors like the source and mode of recruitment/appointment, the qualifications, the nature of work, the value judgment, responsibilities, reliability, experience, confidentiality, functional need, etc.

23. Now a plunge into the subject matter. It would be seen from the pleadings that the matter has been receiving the attention of the successive Pay Commissions which had made certain observations/recommendations. These are contained in the rejoinder, wherein the applicants have highlighted the import of para 7.6.14 a Annexure A-7 of the Sixth Pay Commission Recommendations and submitted that the Sixth Central Pay Commission found parity among Inspector of Posts, Inspectors in the CBDT/CBEC and assistants in the CSSS and to effectuate this parity, the pay scale of Inspector of Posts was upgraded with effect 01-01-2006. The applicants had drawn a comparative statement of the pay scale recommended by the two Pay Commissions, i.e. the 5th and 6th CPC. The same is extracted below:-

		Payscale recommended by the 5 th CPC and accepted by the Govt.	Pay scale recommended by the 6th CPC and accepted by the Govt.
1	Assistants in CSS and Inspectors in CBDT/CBEC	Rs.5500-9000	9300-34800 with GP Rs.4200
2	Inspector Posts	Rs.5500-9000	9300-34800 with GP Rs.4200
3	Central Excise/Customs Superintendent, Income Tax Officer	Rs.6500-10500	9300-34800 with GP Rs.4800
4	Section Officer in CSS	Rs.6500-10500	9300-34800 with GP Rs.4800

5	Assistant Supdt. of Posts	9300-34800 with GP Rs.4800	9300-34800 with GP Rs.4600
6	Supdt. Of Post Offices	Rs.7500-12000	9300-34800 with GP Rs.4800

24. Further, the applicants in their additional rejoinder annexed relevant extract of Sixth Pay Commission Recommendations and also various notes exchanged between the Department of Posts and the Ministry of Finance (Department of Expenditure).

25. As regards the observations of the earlier Pay Commissions, in their Additional reply, respondents have added certain extracts of the Fourth and Fifth pay Commission and referred to the same again in their second additional reply. The relevant extracts of the Pay Commission Recommendations are as under:-

"10.42: Inspectors of Post Offices in the scale of 425-700 hold charge of sub divisions and their duties mainly involve inspection of sub post offices and branch post offices. They also function as appointing authority for Group D and extra departmental staff and are vested with disciplinary powers in respect of these categories of staff. The Inspectors of the RMS have similar duties and responsibilities. The assistant superintendents (Rs.550-900) both in post office and RMS are employed in Group A and large Group B divisions to assist in general administration and for inspection of various offices and periodical review of arrangements for mail transmission.

10.43: Associations of inspectors and assistant superintendents of post offices and RMS have requested for better pay scales in view of the arduous nature of their duties and the detailed syllabus for the examination through which they have to qualify.

10.44: The Department has proposed merger of the IPO and IRM cadres and ASPO and ASRM cadres. It has been pointed out that the duties and responsibilities of the two cadres are similar. We find that the pattern of recruitment for posts of inspector in other central government organizations like customs and central excise and income tax, provides for direct recruitment through staff selection commission at this level. However, in the Postal department, there is no direct recruitment above the level of postal and sorting assistant, appointment is not through any competitive examination but is based on marks secured in the matriculation examination. In other government departments there is generally direct recruitment based on competitive examination at clerical level. In the interest of efficiency of service, it is necessary to introduce an element of direct recruitment at the level of inspectors/assistant superintendents through the staff selection commission, and we recommend accordingly. If this is done and the two cadres are merged, government may examine what scale of

pay will then be suitable for these posts. Till this is done, the scales recommended by us in chapter 8 will apply. Our Recommendations

62.9 The Fourth CPC recommended merger of Postal Superintendents and Postmasters Services Group B as a common feeder grade for promotion to 40% of the vacancies in the Indian Postal Service Group A. The combined Postal Superintendent's Service Group B enters at the scale of Rs.2000-3500 as a 100% promotion level, of which 75% is earmarked for Assistant Superintendents (Rs.1640-2900) by promotion, 19% come through an examination from among Assistant Superintendents and Inspectors, and the remaining 6% by examination of general line postal officials in the Higher Selection Grade I (Rs.1640-2900). Assistant Superintendents are in turn filled 100% by promotion from the level of Inspectors (Rs.1400-2300). In the chapter relating to Restructuring of Postal Services, we have already recommended that Inspectors of Post Offices and RMS should be merged, upgraded to Rs.1640-2900, and filled 33.1 /3 % by direct recruitment from the Inspectors grade examination of Staff Selection Commission. Accordingly, we recommend that Assistant Superintendents of Post Offices and RMS, which level will also consequently be merged, should be upgraded to the scale of pay of Rs.2000-3500 and Postal Superintendent Services Group B to Rs.2500-4000. As regards introduction of time bound promotion at the end of 6 and 8 years' service exclusively for the postal superintendents, in view of the scheme of Assured Career Progression, we do not recommend any further changes. We are also not in favour of disturbing the present ratio between direct recruitment and promotion at the level of India Postal Service Group A."

26. From the perusal of the Recommendations of the Pay Commissions it could be easily discerned that the Pay Commissions have suggested certain measures relating to introduction of element of direct recruitment which was conspicuously absent earlier and without which comparison with the Inspectors in other Departments/Ministries could not be made. Once direct recruitment has been introduced, it was to the full satisfaction of the Pay Commission, which had in fact commented, "The Commission is recommending the merger of pre-revised pay scales of Rs 5500 - 9000 and Rs 6500 - 10500 which will automatically bring Inspector (Posts) on par with Assistants in CSS/Inspectors and analogous Posts in CBDT and CBEC."

The import of this observation of the Pay Commission is that the Pay Commission was very much interested to ensure pay parity of Inspector (Post) with Assistants of CSS and Inspectors and analogous posts in CBDT and CBEC. This recommendation of the Pay Commission is in tune with the observations of the Apex Court in the case of State of West Bengal v. West Bengal Minimum Wages Inspectors Association, (2010) 5 SCC 225 wherein it has been stated as under:-

"23. It is now well settled that parity cannot be claimed merely on the basis that earlier the subject post and the reference category posts were carrying the same scale of pay. In fact, one of the functions of the Pay Commission is to identify the posts which deserve a higher scale of pay than what was earlier being enjoyed with reference to their duties and responsibilities, and extend such higher scale to those categories of posts."

27. When the question of pay scale parity is examined, as stated by the Apex court, the Court has to make analysis in respect of factors like the source and mode of recruitment/appointment, qualifications, the nature of work, the value thereof, responsibilities, reliability, experience, confidentiality, functional need, etc. Viewed from this point, first as to the mode of recruitment. As stated earlier, it was at the recommendations of the Fourth Pay Commission, element of Direct Recruitment had been introduced and in fact there has been common examination in respect of inspectors in various departments, including Inspector (Posts). In fact, the statistics furnished by the applicants vide Annexure A-14 which has been rightly highlighted by the Senior Counsel at the time of hearing, would reflect that the cut off marks in respect of Inspector (Posts) is more than the cut of marks of Inspector (Central Excise). Thus, this requirement is fully met with.

28. Entering to Managerial Cadre of Department Posts, after selection, through a tough competitive exam the applicant is appointed as Head of a Sub-Division. For ease of Administration, a Postal Circle is divided into Divisions and further sub-divided into sub-divisions. The I.P being the Head of the Sub-Division is the recruiting and appointing authority for various Gramin Dak Sevaks below GDS BPM of around 30 to 70 Branch Post Offices (B.P.Os for brevity) placed under his administrative control. He is responsible for conducting annual accounts and administrative inspections of all these B.P.Os besides the allotted departmental sub-post offices in his sub-division. He needs to make frequent visits to Head Post Offices and Lower Selection Grade, Higher Selection Grade and time scale departmental post offices to conduct enquiries, take statistics, make verification of savings bank claims for settlement, etc. Moreover, he is the leave granting authority for GDS, Postman, Grade 'D', etc. of his sub-division attached to it for leave reserve purpose. He has to depute them to needy P.Os so that staff there can be granted leave. He is not provided with any clerical assistance and hence is left with doing a lot of clerical work besides discharging his inspection duties. He has to review the diaries of mail overseers attached to him who are expected to make surprise visits to the B.P.Os to ensure effective service delivery to the rural populace which these B.P.Os serve. Since, Post Offices are entrusted with multifarious duties in the counter, like booking of MOs, RLs, Parcels, Speed Post Mails besides post office savings bank and postal and rural postal life insurance work the IP has to carry out checks and balances by him through mail overseers to avoid any possible malpractices, deficient service delivery etc. to its customers. He also dons the role of a Business Development Manager as he is

allotted specific target for canvassing RPLI policies, speed post mail and money orders increasing the number of SB/RD accounts opened etc. The large scale induction ICT in Department POs, bestows on him, yet another role of trouble shooter. Selected I.Ps are sent for training to Computer Institutes, to acquire knowledge of programming in C++, visual basic etc. other program like oracle, and Microsoft and Java platforms. They also work as instructors in the 5 postal training centres in the country, where thousands of Postal Assistants are imparted induction training for 2= months. The software development lab in Mysore and Madurai Postal training centres have managed to develop many software application packages which are successfully used in P.Os and sold to other countries. The contribution of I.Ps/A.S.Ps it is stated is invaluable in this field of work. The ICT (Information in Computer Technology) induction in Department of Post has earned recognition and rewards from Cabinet Secretariat and other independent assessment bodies. For this, the I.Ps/A.S.P.Os have played a stellar role. A few of the I.P.Os/A.S.P.Os have taken the pains to get Law Degree so that, they have the required expertise in the legal cell. They rightly contend that they form the backbone of the Department of Posts. Under these circumstances, there is definitely an element of discrimination while fixing his grade pay as Rs. 4200/- while those who discharge only clerical duties in the divisional office or Regional Office in the same Department like Senior Hindi Translators get a grade pay of Rs. 4600/-. Moreover, the Postal Assistants get the financial up-gradations insitu, while IP is subjected to rotational transfers. The I.P on his next promotion as ASP is placed in the feeder category of Postal Services Group B. On such promotion as Superintendent of Post Offices in Group B, they are liable for transfer, anywhere in India. Such transfer continues to happen on their further promotion to Group A if they are promoted after a minimum service of six years in Group B. It is not uncommon to find quite a few I.Ps retiring just as Assistant Superintendent of P.Os only due to lack to substantive vacancies in Group B, delay in holding of DPCs, etc. Therefore, the applicants feel rightly aggrieved that the upward mobility in career, obtained through the dint of sheer hardwork does not pay the right dividends, they deserve.

29. In fact, the Department of Post, in their note dated 23-02-2010 in File NO. 4-12/2009-PCC to the Ministry of Finance has explained the technological advancements in the postal department and the consequential work load to the staff in the following words -

"The Postal Department has inducted technology in postal operation in a big way and also introduced many new products. Further the introduction of Rural Postal Life Insurance in the year 1995 has added additional responsibility on Inspectors as they are given the task of marketing, promotion of new products, monitoring and liaison with the field staff and work as a bridge between administration and operative offices. The Department proposes to computerize the double handed and single handed Post Offices and 65000 Branch Post Offices by the end of 11th Five Year

Plan. The inspector (Posts) have been provided adequate training and fully equipped to handle the computer operation. In addition to above, the Rural Development Ministry has introduced National Rural Employment Guarantee Scheme for providing 100 days of assured employment to the rural public and the payment under the said scheme are made through post offices to its beneficiaries. The Inspector Posts have a clear cut role in overseeing the implementation of NREGA and timely payment to its beneficiaries. The Department has recently proposed to equip these Inspectors with Laptop and Printer for smooth functioning.

30. This Tribunal need not have to labour more to arrive at the finding that the functional responsibilities of the Inspector (Posts) are certainly onerous and evidently, it is on the basis of adequate justification that the successive Pay Commissions have appreciated the need to revise the pay scale of Inspector (Posts).

31. The decision of the Ministry of Finance does not appear to have taken into account the clear recommendation of the Sixth Pay Commission nor for that matter the full justifications given by the Department of Posts.

32. Thus, when the Pay Commission opined that by virtue of merger of the pays scales of Rs 5500 - 9000 and Rs 6500 - 10500, the same would "automatically bring Inspector (Posts) on par with Assistants in CSS/Inspectors and analogous posts in CBDT and CBEC, what it meant was that from hence, Inspector (Posts) would sail in the same boat as his counterparts in the Income Tax Department or Central Excise or Customs Department or for that matter the Assistants in the CSS. **"The difference in the grade pay is not one created by the Pay Commission but the same is due to the fact that as late as in 2009, it is the Government of India which had raised the grade pay of the pay scale 6500 - 10500 that existed as on 01-01-2006 vide order dated 13-11-2009, whereby posts which were in the pre-revised scale of Rs 6,500 - 10,500 as on 01-01-2006 and which were granted the normal replacement pay structure of grade pay of Rs 4,200/- in the pay band PB 2 will be granted grade pay of Rs 4600 in the pay band PB 2 corresponding to the pre-revised pay scale of Rs 7450-11500 w/e/f/ 01-01-2006. And, if a post already existed in the pre-revised scale of Rs 7450-11500, the posts being upgraded from the scale of Rs 6500 - 10500 should be merged with the post in the scale of Rs 7450 - 11500/-. In fact had the above enhancement in the grade pay been recommended by the Pay Commission, it would not have omitted to consider such an increase in the grade pay of Inspector (Posts) as well.**

33. Thus, within the parameters prescribed by the Apex Court in respect of the powers of the Tribunal in dealing with the fixation of Pay scale the case has been considered and the Tribunal is of the considered view that there is no justification in denying the Inspector(Posts) the higher Grade Pay of Rs 4600 when the same

is admissible to Inspectors of other Departments with whom parity has been established by the very Sixth Pay Commission vide its report at para 7.6.14 extracted above. The Department of Post also equally recommends the same and as such, at appropriate level, the Ministry of Finance has to have a re-look in the matter dispassionately and keeping in view the aforesaid discussion. The ASPOs, as a result can be granted a grade pay of Rs.4800/- and the Superintendents grade pay of Rs.5400, as in the case of Superintendents of Central Excise & Customs.

34. In view of the above, the OA is allowed to the extent that keeping in tune with the observations of the Sixth Pay Commission, coupled with the strong recommendations of the Department of Post and also in the light of our discussion as above, first respondent, i.e. the Ministry of Finance shall have a re-look in the matter at the level of Secretary and consider the case of the Inspector (Posts) for upgradation of their grade pay at par with that of the Inspector of income tax, of CBDT and CBEC. This will make the grade pay of Inspector (Posts) at par with that of the promotional post of Assistant Superintendents of Post Offices, it is expedient to consider and upward revision of the grade pay of ASPs as well. All the necessary details and statistics as required by the Ministry of Finance shall be made available by the second Respondent i.e. the Director General of Posts. It is expected that within a reasonable time, the respondents shall arrive at a judicious decision and implement the same.

35. No costs.

K NOORJEHAN
ADMINISTRATIVE MEMBER

Dr K.B.S.RAJAN
JUDICIAL MEMBER