

Central Administrative Tribunal
Principal Bench

O.A. No. 1670 of 2001

New Delhi, dated this the 4th April.2002

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. SHANKER RAJU, MEMBER (J)

Gulab Bhati,
House No.111/G, Ward No.9,
Near MCD School,
Kishangarh,
P.O.Vasant Kunj,
New Delhi-70
(By Advocate: Shri Ranbir Yadav) ...Applicant.

Versus

1. Union of India,
through
The Secretary,
Ministry of Human Resource Development,
(Department of Secondary Education and
Higher Education),
New Delhi.
2. The Director,
Central Hindi Directorate,
Ministry of Human Resource Development,
(Department of Secondary Education and
Higher Education),
West Block-7, R.K.Puram,
New Delhi-110066
3. The Secretary,
Ministry of Personnel, Public Grievances and
Pensions,
Department of Personnel and Training,
North Block-I,
New Delhi-1
4. Union Public Service Commission,
through
the Chairman/Secretary,
Dholpur House,
Shahjahan Road,
New Delhi. ... Respondents.
(By Advocate: Shri A.K.Bhardwaj)

ORDER

S.R. ADIGE, VC (A)

Applicant impugns respondents' Memo. dated 4.1.2001 (Annexure P-21) and seeks the benefits of Group 'A' pay scale at par with other foreign language officers in various Ministries/Departments of Government of India.

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2. Pleadings reveal that pursuant to the India - German Democratic Republic Cultural Exchange Programme 1971- 1973 it was decided to bring out a Hindi-German and German-Hindi Dictionary. For this purpose the Central Hindi Directorate (Respondent No.2) advertised 3 vacancies of Research Assistant (German) ⁱⁿ the Employment News on 28.8.1982 (Annexure P-1). In the advertisement it was stated that the pay would be Rs.550-900, and the age limit was 30 years or below. The prescribed qualifications were:

"Essential; 1. Atleast Master's Degree in German language from a recognised university and knowledge of Hindi upto Higher Secondary

OR

Atleast Master's Degree in Hindi language from a recognised University and two University and two years Diploma in German language;

2. Experience of work relating to Glossary, Dictionary work, literary, Journalism in which Hindi is used.

Desirable: (1) Knowledge of atleast one Modern Indian language except Hindi;

(2) Experience of translation work.

3. Applicant applied for the aforesaid post, and as per para 4.8 of his OA, he was appointed against one of these posts on ad hoc basis, which appointment was extended from time to time. No separate recruitment rules for these posts were framed.

4. On 13.12.1985 applicant and others filed OA No.39/85 for regularisation of their services. That OA was allowed by orders dated 13.11.1992 (Annexure P-8). In that order, after holding in para 4 thereof, that the posts of R.A. (German) were analogous to posts of R.A. (Hindi) for which Recruitment Rules were in existence, respondents were directed to regularise the services of those applicants with effect from the respective dates of their ad hoc appointment in consultation with UPSC and on evaluation of their ACRs. Pursuant to that order dated 13.11.1992 applicant was regularised as Research Assistant (German) in the pay scale of Rs.1640-2900 w.e.f. 13.9.1982 vide respondents' order dated 8.3.1994 (Annexure P-9).

5. There was no material shown to us by applicant to indicate that at any time before the disposal of OA No.39/85 by order dated 13.11.1992, he made any grievance to respondents in regard to his pay scales. Indeed applicant did not raise any objection even to respondents' order dated 8.3.1994 regulating him and other RA's in the scale of Rs.1640-2900.

6. It is only in his representation dated 12.11.1997 (Annexure P-11) that after referring to his earlier representations beginning from 18.1.1996 onwards, he stated that the 5th Pay Commission had placed Hindi Research Assistants in the pay scale of Rs.2000-3500 revised to Rs.6500-10500 and accordingly he had also been placed in the same pay scale of Rs.2000-3500 revised to Rs.6500-10500, which was gross injustice meted out to him as the work done by him

could not be done by a Hindi Research Assistant, and he was working in the capacity of Foreign language Research Assistant. He contended that people working as Translators, Interpreters, Tutors, Instructors, Examiners, Editors and Advisers in foreign languages working in various Ministries with entry level qualification of BA in foreign language were placed in the pay scale of Rs.2200-4000 (revised to Rs.8000-13500), Rs.3000-5000 (revised to Rs.10000-15000), and Rs.4500-5700 (revised to Rs.14300-18300), while applicants' entry qualification was MA in German and yet his pay scale was Rs.2000-3500 (Rs.6500-10500). With that representation dated 12.11.1997 he referred to various advertisements for post of Translators, Interpreters, Tutors, Examiners and Advisers in Foreign Languages in MEA, Defence Ministry, Home Ministry, etc., whose entry level qualification was generally a Bachelors' Degree in the foreign language concerned, while he possesses an entry level qualifications of Master Degree in the foreign language (German) and is therefore entitled to a higher pay scale.

7. Thereafter, applicant filed OA 2053/2000 challenging respondents' order dated 16/19.6.1998 and dated 30.7.1998. During the course of the hearing it was brought to the notice of the Bench that several representations of applicant, one such being dated 28.5.2000 had not been disposed of by respondents. Accordingly, that OA was disposed of by order dated 19.10.2000 (Annexure P-20) with a direction to respondent to dispose of those representations by a detailed, speaking and reasoned order in accordance

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with rules and instructions under intimation to applicant, giving liberty to applicant that if any grievance still survived, it was open to him to agitate the same through appropriate proceedings in accordance with law, if so advised.

8. Pursuant to that order dated 19.10.2000, respondents issued impugned orders dated 4.1.2001.

9. Applicant had filed CP No.183/2000 alleging contumacious disobedience of the Tribunal's order dated 19.10.2000 in OA No.2053/2000, but after noticing respondents' order dated 4.1.2001, and observing that if applicant was aggrieved by the aforesaid order dated 4.1.2000, the remedy was not though a CP, the same was dismissed, after giving applicant liberty to agitate his grievance in accordance with rules law, if so advised.

10. Applicant has now filed the present OA.

11. We have heard both parties, and perused the pleadings.

12. We note that in pith and substance, the grounds taken by applicant in the OA are the same that taken in his aforesaid representation dated 12.11.1997, namely, that while others with only graduate level entry qualifications in the relevant foreign languages are enjoying higher pay scales, he with Master's level entry qualification is in an inferior scale. It is also contended that while those others are engaged only in bilingual

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translation/typing work, he is engaged in highly academic bilingual research work and is therefore entitled to pay scales atleast equivalent to those others.

13. We have considered the matter carefully.

14. We note that the Tribunal in its order dated 13.11.1992 while disposing of OA No.39/85 filed by applicant and others, has specifically held that the post of Research Assistant (German) is analogous to the post of Research Assistant (Hindi) for which recruitment rules are in existence. Nothing has been shown to us to establish that the aforementioned specific finding of the Tribunal in its order dated 13.11.1992 has been stayed, modified or set-aside. We as a co-ordinate division Bench are bound by that Division Bench orders.

15. That apart, the posts of Research Assistant cannot be equated with post of Translators, interpreters, Tutors, Instructors, Examiners, Editors, Advisers, etc. Their very nomenclature makes it clear that these posts are different in duties, responsibilities, nature of work, etc. Applicant has advanced his claim in the present OA on the principle of equal pay for equal work, but for such a claim, to succeed, the following extracts from the Hon'ble Supreme Court's ruling in State of M.P. & Another Vs. P.K.Bharatiya & Ors., JT 1992(5) SC 683, are relevant:

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"Whether two sets of Lectureres in Madhya Pradesh one in the Higher Secondary School and the other in the Technical School having similiarity in qualifications, service conditions and status of schools, be paid equal pay, would significantly depend upon whether they are discharging similar duties, functions and responsibilities. In the instant case there is a conspicuous absence of any clear allegation and/or material suggesting that functions and responsibilities of both the categories of lecturers are similar.

It is not enough to say that the qualifications are the same, nor is it enough to say the schools are of the same status. It is also not sufficient to say that the service conditions are similar. What is important and crucial is whether they discharge similar duties, functions and responsibilities."

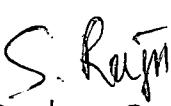
16. In the present case applicant himself contends that the others (Translators, Interpreters, Tutors etc. mentioned in his representation dated 12.11.97) are performing bilingual translation/typing work, while he claims to be performing high level trilingual academic research work. Apart from the fact that the nomenclature of the post of Research Assistant and that of Translators, Interpreters etc. makes it quite clear that the duties, functions and responsibilities of the two sets of posts are not similar, in view of applicants' own contention that the work he is performing is not similar to that being performed by Translators, Interpreters etc. it is clear that a case of Equal pay for Equal work is not made out.

17. Applicant has contended that as the other posts carrying higher pay scale have a Bachelor degree in foreign language as an entry level qualification, while he possesses a Master degree as an entry level qualification, he is entitled to a higher pay scale.

It is well known that for the Civil Services Exam. held by UPSC each year for making selection to IAS and other All India and Central Services, the entry level qualification is only a Bachelor's degree. If applicant's arguments were to be accepted, the post of Research Assistant to which a Master's degree is the prescribed entry level qualification, should carry a pay scale equivalent to that drawn by the IAS and/or other All India and Central Civil Service Officers. Obviously such an argument has to be rejected.

18. Furthermore we notice that in all the other posts to which applicant has referred to in his representation dated 12.11.97, while no doubt the entry level qualification is a Bachelor's degree in the respective foreign language, in *almost* all, if not all the cases, it has to be accompanied by a diploma in translation work/interpretership which is not an essential requirement for the post of Research Assistant. Under the circumstance merely because the post of Research Assistant carries an entry level qualification of Master degree, while other posts such as Interpreter, translators etc. carry an entry level qualification of Bachelor's degree is not sufficient for applicant who is a Research Assistant to claim the pay scale granted to Translators, Interpreters etc. as they also have to possess a diploma in translation work/interpretership.

19. The foregoing discussion is sufficient for us to conclude that applicant had not been able to make out any good grounds to warrant interference in this OA, which is therefore dismissed. No costs.


(Shanker Raju)
Member (J)


(S.R. Adige)
Vice Chairman (A)