

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1660/99

At New Delhi, this the 22nd day of October, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)
Hon'ble Shri Govindan S. Tamai, Member (A)

(34)

Shri Harikishan Sharma
S/o Late Pt. Mohan Lal Sharma
58, Vasant Nagar, Vasant Vihar
New Delhi - 57.

Working as PTI (Physical Training Instructor)
College of Pharmacy
Pushp Vihar, Sector-3
New Delhi.

...Applicant

(By Advocate Shri Arun Bhardwaj)

V E R S U S

UNION OF INDIA : THROUGH

1. Secretary
Ministry of Human Resource Development
Shastri Bhawan
New Delhi.

2. Lt. Governor of Delhi
Rajniwas, Delhi.

3. Secretary-Cum-Director
Directorate of Technical Education
Govt. of NCT of Delhi
C-Block, Vikas Sadan
New Delhi.

4. Principal
College of Pharmacy
Pushp Vihar
New Delhi.

...Respondents

(By Advocate Shri Ajesh Luthra)

O R D E R (ORAL)

By Hon'ble Shri Govindan S. Tamai,

We have heard Shri Arun Bhardwaj and Shri Ajesh Luthra, learned counsel for the applicant and the respondents respectively.

2. The main relief sought in this OA is the grant of higher pay scale of Rs. 8000-13,500/- to the applicant w.e.f. 1-1-1996 as is given to the PET/PTI of Degree College or atleast the implementation of the

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recommendations of the Dogra and Madan Committee and grant the pay scale of Rs. 2000-3500/- (pre-revised) to the applicant w.e.f. 1-1-1986.

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3. To narrate in brief relevant facts, the applicant who joined the respondents as Physical Training Instructor (PTI) on 1-5-1962 retired on superannuation on 31-7-2001, during the pendency of this OA. On the recommendations of the Madan Committee w.e.f. 28-2-1989, the pay scales of the Teachers in Technical institutions, including those of PTIs w.e.f. 1-1-1986 had been revised. Delhi Administration also accordingly increased the pay scales of PTIs as Rs.2200-4000/- (Rs.8000-12,000). The applicant after working in the Polytechnic for long time was transferred to College of Pharmacy, under the Directorate of Training and Technical Education in 1993, wherefrom he retired on superannuation. College of Pharmacy was an Institution where graduate, post-graduate and doctoral studies are undertaken. He was a matriculate with a one year diploma in Physical Education and had one year's experience certificate at the time of his recruitment in the Polytechnic as PTI, wherefrom he was transferred to the Delhi College of Pharmacy. The request made by the applicant is that as he had worked and retired from the College of Pharmacy, it was under the Directorate of Training and Technical Education, and there was a common seniority among the PTIs in which he ranked first and there was transfer ability of posts from Polytechnics to College and back, he should be given the pay scale of PTI attached to the colleges which presently is Rs. 8000-13,500/-. He states that the fact he was only a matriculate with a

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certificate of one year ⁻³⁻ experience in physical education was immaterial as he was found fit to be appointed as PTI in the first instance and transferred to the College of Pharmacy. He also relies upon the Tribunal's orders dated 5-1-1988 in OA No. 1139/86 filed by Mrs. J.Morrison and on 31-8-98 in OA 3333/92 filed by Mohinder Singh Choudhury. On the basis of these cases, his claim for the revised pay scales should be granted. He has also pointed out that on 1.1.5-1994 Govt. of NCT of Delhi, Directorate of Training & Technical Education had issued an order promoting the applicant by fixing his pay at Rs. 2675/- w.e.f. 1-1-1992 and they had also granted him a scale of Rs. 7450-115,00/-. Inspite of that the respondents have changed their stand, refixed his scale of pay and ordered recovery for more than Rs. 10,000/- after his retirement, which was harsh, while he was correctly entitled to the higher grade of PTI in the College, he has been discriminated, which the Tribunal should set right, according to his learned counsel, Shri Bhardwaj.

4. Contesting the above and reiterating the pleas made on behalf of the respondents, Shri Ajesh Luthra, learned counsel invites our attention to the Recruitment Rules for PTI (Senior) in Technical Higher Secondary School and PTI in College of Pharmacy, wherein the qualifications required are graduation from a recognised University, Diploma or Certificate in Physical Education and Three years practical experience in the line. According to him, none of these conditions are fulfilled by the applicant and he could not at all have been considered for filling the post equivalent to PTI in a College. The applicant,

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therefore, have no case. He also states that in 1991, the applicant's pay scale which was 1400-2600/- was revised to Rs.1640-2900/- wherein it was fixed as Rs.2675/-. The replacement for the above pay-scale of Rs. 1640-2900/- was Rs. 5500-9000/- and not Rs. 6500-10,500/- as it was erroneously fixed. Once it was found that a mistake had arisen in the fixation of pay, respondents took corrective action and the same was legal. He states that the decision cited by the learned counsel for the applicant are not relevant as they relate to movement from one college to another, while the applicant was only eligible for being posted as PTI in a Polytechnic.

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5. We have carefully considered the matter. We find that the applicant admittedly is a matriculate with a certificate in Physical Education and one year's experience at the time of his original recruitment in the Polytechnic. It is true that he has been transferred in 1993 in the College of Pharmacy wherefrom he has retired on superannuation in 2001. The fact, however, remains is that he does not possess the basic essential qualification for being appointed as PTI in a College. Nor is his case that any specific relaxation has been made in his case for regularising him in a college as PTI. Therefore, the plea made on behalf of the applicant by the learned counsel for the applicant that he should be deemed as having the necessary qualifications and thus entitled to the higher pay scale does not stand the scrutiny of law. We also find two decisions cited by the learned counsel for the applicant in the OA No. 1139/86 filed by Ms. J.Morrison and 3333/92 filed by Shri Mohinder Singh Choudhury (supra) are not relevant in this case,

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as they relate to parity of pay in the case of Physical Directors in Colleges, while the present applicant is only PTI in the Polytechnic, with qualification only for that post. The applicant's pay having been correctly fixed at Rs.1640-2900/-, he could not have been given a higher replacement scale. As such respondents' action in rectifying the mistake and ordering recovery of excess amounts paid cannot be assailed. The applicant's further request that his pay scale should be revised at Rs.8000-13,500/- has no sanction in law, as the applicant working in Group "C" post and drawing pay accordingly cannot be considered for grant of automatic promotion and grant of a group "A" scale of pay.

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6. In the above circumstances, the applicant's plea that no notice was issued to him before ordering recovery of excess amount received by him also would not come to his assistance as it cannot be anybody's case that the respondents cannot rectify any mistake which had arisen, in fixation of pay, as the applicant could not at all have been paid the higher pay, in view of the qualifications for PTI in College in terms of the Recruitment Rules, which he did not at all possess. This technical omission does not, in our view, in any way alter the final result.

7. In the above view of the matter, we find no merit in this application. OA is accordingly fails and is dismissed. No costs.

(Govindan S.Tampi)
Member (A)

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Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)