

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No.798/98

195*

T.A.No.

(19)

DATE OF DECISION 19-9-2000

Sh.Krishan Kumar

....Petitioner

None present

....Advocate for the
Petitioner(s)

VERSUS

Chief Secretary Govt.of
NCT of Delhi & Ors

....Respondent

Sh.Ajay Gupta

....Advocate for the
Respondents

COURT

The Hon'ble Smt.Lakshmi Swaminathan, Member (J)
The Hon'ble Shri V.K.Majotra, Member (A)

1. To be referred to the Reporter or not Yes
2. Whether it needs to be circulated to other
Benches of the Tribunal etc.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan
Member (J))

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.798/98

New Delhi this the 19th day of September, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Mr. V.K. Majotra, Member (A)

Shri Krishan Kumar
Son of Shri Prithi Singh
Resident of D-14/141, Sector-8,
Rohini, Delhi-110005.

- Applicant

(None present)

Versus

1. The Chief Secretary
Govt. of National Capital Territory of
Delhi, Old Secretariat,
Delhi-110054.

2. The Directorate of Education,
Old Secretariat,
Delhi-110054.

3. The Directorate of Social Welfare,
7, Lancer Road, Timarpur,
Delhi.

- Respondents

(By Advocate Shri Ajay Gupta)

ORDER (Oral)

By Smt. Lakshmi Swaminathan, Member (J)

The applicant has filed this application claiming that the respondents have failed to provide the pay scale due to him since the day of his appointment.

2. The applicant has stated that he has made a number of representations since 22.10.1983, for fixing his pay correctly. He has been appointed as Craft Teacher on ad hoc basis by the Directorate of Social Welfare by order dated 12.3.82 (Annexure-F). Later on, he was appointed on regular basis as Craft Instructor/Teacher by order dated 19.5.1982 (Annexure-G) in the pay scale of Rs.330-560. According to him, the Teachers who were entrusted with the job of teaching the middle level classes and above were given

the pay scale of Rs. 440-750. He has stated that he has been discriminated in this respect. According to him he should have been given the same pay scale of Rs. 440-750 instead of Rs. 330-560 from the beginning and after revision of pay scales he should have been given the scale of Rs. 6500-10500 instead of Rs. 5000-8000. He has prayed that the higher pay scale may be granted to him from the beginning with a direction to the respondents to revise his pay scale with consequential benefits.

3. Shri Ajay Gupta learned counsel has taken a preliminary objection that the OA is barred by limitation. This plea is rejected having regard to the judgment of the Hon'ble Supreme Court in M.R.Gupta Vs. Union of India 1995 (5) Scale 29, as the claim of the applicant is with regard to correct fixation of his pay which is a recurring cause of action.

4. The respondents in their reply have stated that the post of Craft Teacher is a single post in the Department of Social Welfare, which has separate Recruitment Rules prescribing pay scale, educational qualifications etc. They have also stated that there are separate posts of Craft Instructor in the Department of Social Welfare under Respondent No. 1 which have separate Recruitment Rules and according to them the applicant's post of Craft Teacher is separate and distinguishable from the post of Craft Instructor in the Directorate of Social Welfare. They have, therefore, submitted that the claim of the applicant for parity with Craft Instructor which is a separate cadre is not permissible. They have also stated that

the applicant was granted initially the pay scale of Rs. 330-560 which has been revised after the acceptance of the recommendations of the 4th Pay Commission and the 5th Pay Commission. They have also stated that there is no pay scale of Rs. 440-750 for Craft Teacher in the Department of Social Welfare and the qualification for Craft Teachers in the Department of Education is different, apart from the fact that they are governed by separate Recruitment Rules. In the circumstances, they have submitted that the OA is misconceived and there has been no discrimination against the applicant justifying allowing the claims made by the applicant in the OA.

5. It is noted that the respondents have filed their reply as far back as on 21.9.99 and inspite of several opportunities having been granted to the applicant, no rejoinder has been filed. None has also appeared for the applicant when the case has been called out twice. Hence we have perused the pleadings and relevant documents on record.

6. It is relevant to note that there is no contravention of the averments made by the respondents in their reply that there are different sets of Recruitment Rules governing the qualifications, experience and other factors, including pay scales regarding Craft Teachers and Craft Instructors in different Departments under Respondent No.1 namely, the Government of NCT of Delhi.

7. We have also seen the representation made by the applicant dated 18.8.88 in which he has, inter alia stated that he is not a 'Basic Teacher' although the pay scale given to the Craft Teacher was the same and

8:

on that basis he stated that he is entitled for same revision of pay scale as given by the respondents in their letter dated 5.7.84. It is noted that the applicant is seeking parity in pay scales to that of a Trained Graduate Teacher. On the basis of the pleadings, we are unable to allow the claim of the applicant for a higher pay scale from the date of his appointment.

8. In State of Madhya Pradesh and another Vs. Pramod Bhartiya and others JT 1992 (5) SC 683 the Hon'ble Supreme Court has held as follows:-

"Where the Lecturers in the M.P. Higher Secondary Schools though complained of discrimination in pay scales on basis of material in counter-affidavit of Govt, but the material went only to show that (a) the qualifications prescribed for the Lecturers in the Higher Secondary Schools and the non-technical Lecturers in Technical Schools were the same; (b) service conditions of both the categories of Lecturers were same; and (c) that the status of the schools was also the same yet there was a conspicuous absence of any clear allegation and/or material suggesting that functions and responsibilities of both the categories of Lecturers were similar much less was there any allegation or proof that qualitatively speaking, they performed similar functions. The material in counter affidavit of Govt, the Lecturers of Higher Secondary Schools could not be considered to have shown that they were discriminated against in the matter of pay scale. It is not enough to say that the qualifications are same nor is it enough to say that the schools are of the same status. It is also not sufficient to say that the service conditions are similar. What is more important and crucial is whether they discharge similar duties, functions and responsibilities".

9. Having regard to the facts and circumstances of the case and the settled law with regard to the claims for equal pay for equal work, including the judgment referred to above, we are unable to agree with the contentions of the applicant that he has been discriminated or that he is entitled for grant of the senior scale of pay of Rs. 440-750, from the beginning

when he was appointed as a Craft Teacher in 1982. The averments made by the respondents in their reply that the different pay scales have been given to officers in separate grades has also not been controverted by the applicant in any way and, hence, there is no ground on which the OA can be allowed on the basis of the pleadings.

10. In the facts and circumstances of the case, as all the parameters laid down by the Hon'ble Supreme Court for grant of equal pay for equal work are not fulfilled by the applicant in the present case, the OA fails and is dismissed. No order as to costs.

V.K. Majotra?

(V.K. Majotra)
Member (A)

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member (J)

cc.