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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.197/95

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NEW DELHI THIS THE 2nd DAY OF FEBRUARY, 1995.

HON'BLE SHRI J.P. SHARMA, MEMBER (J)
HON'BLE SHRI B.K. SINGH, MEMBER (A)

Shri P.S. Yadav,
S/o Shri Kripa Ram
Health Education Officer,
Family Welfare Training Centre,
Directorate of Family Welfare,
Govt of National Capital Territory of Delhi
C Block, Sarswati Vihar
New Delhi

.....Applicant

(By Advocate : Shri Ajit Puddiserry)

VERSUS

1. The Secretary (Medical)
Ministry of Health & Family Welfare,
Govt of National Capital Territory of
Delhi, Shyam Nath Marg,
Delhi.
2. The Secretary,
Ministry of Health & Family Welfare,
Nirman Bhavan,
NEW DELHI.

...Respondents

JUDGEMENT (ORAL)

Hon'ble Shri J.P. Sharma, Member (J)

The applicant was appointed in April, 1970 on the recommendations of the U.P.S.C. against the post of Health Educator, in the Directorate of Family Planning, Delhi Administration, which carried the initial scale of Rs.350-900. There is Recruitment Rule for the post. The reliefs prayed for in Para 8 are quoted below :-

- a) Issue writ, order or direction to the respondents to grant equal treatment to the Health Education

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Officers with the Medical Lecturers in the matter of pay scales and avenues of promotion and other allowances.

- b) Direct that promotional avenues will be provided to the category of Health Education Officers as per the law settled by the Hon'ble Supreme Court of India and this Hon'ble Tribunal;
- c) Direct that the above benefits will be granted to the applicant with retrospective effect;
- d) Grant costs of the application;
- e) Pass such other and further order/orders as are deemed fit in the facts and circumstances of the case.

2. The learned counsel for the applicant has taken us to the recommendations of the Fourth Pay Commission and highlighted the fact that the Medical and Non-medical teachers have been duly considered and they have been given benefit which had been given to the Medical Staff. On the same analogy the learned counsel fervently argued that the applicant who is also imparting certain teaching while holding this post of Health Educator in the Department of Family Welfare may be equated with the Medical Lecturers. We have gone through the pleadings as well as heard the learned counsel for the applicant at considerable length. The learned counsel also prayed that the applicant may also be heard.

So we also heard the applicant in person. The applicant emphatically emphasised that the promotion has in situ been given to the other similarly situated persons/staff working under the Post Partum Programme, Ministry of Health & Family Welfare. The learned counsel for the applicant also pointed ^{out} / certain recommendations made by the Ministry of Health and Family Welfare in their letter dated 5th March, 1985 on the status of teachers and staff working under the Post Partum Programme at par with those working in other Health Departments. The learned counsel also pointed out that to strengthen and implement the Family Welfare programme a decision to make the 'U.G.C. scheme for merit promotion of Teachers' for the above staff of Post Partum Programme, has been taken. We have considered this aspect also. The applicant may have certain issues for judicial review which cannot be denied. But the difficulty before us is that the Court cannot tinker with the equation of pay and post, creation of cadre or merging of isolated post in another cadre, at a time when an Expert Body like the Fifth Pay Commission is looking into the interests of the Central Government Employees, the employees of Delhi Administration are also covered therein.

3. The learned counsel for the applicant is apprehensive that he may not be granted the relief or grant of the relief may be delayed and the applicant may superannuate by that time. Such things do happen in the career of Government

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servants but we should not be so much pessimist with regard to the career prospects.

4. In view of this we dispose of this application with a direction that the applicant shall make an elaborate and exhaustive representation through his department i.e. the Directorate of Health and Family Welfare, and the said representation shall be forwarded to the Fifth Pay Commission where the suggestions have already been called for from various departments. The Directorate of Health and Family Welfare may also consider the case of the applicant as they have also considered the case of similarly situated employees vide their letter 5th March 1985 referred to above.

5. During the course of the arguments it is brought to our notice by the learned counsel that the applicant has reached the maximum of pay and has also earned two stagnation increments and the third is likely to be due. In such an event till the applicant will be granted stagnation increment, the report of the 5th Pay Commission may be out. We hope that the report will come soon.

6. In view of the above facts and circumstances of the case the present application is disposed of ^{le} *having no prima facie case at present* under Section 19, Clause (3) of the Administrative Tribunal Act, 1985 giving liberty to the applicant to seek his own legal remedy in accordance with law, if still aggrieved.


(B.K. SINGH)
MEMBER (A)


(J.P. SHARMA)
MEMBER (J)