

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.1666/96

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Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastry, Member(A)

New Delhi, this the 26th day of April, 2000

Mrs. Sucheta Adhikari
aged 49 years
w/o Sh. S.K.Adhikari
Artist,
Employees' State Insurance Corporation
(P.R.Section)
Panchdeep Bhavan
Kotla Road
New Delhi - 110 003.
r/o BA/10-A, Munirka
DDA Flats
New Delhi - 110 067

(By Shri A.K.Bhardwaj, Advocate)

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The Employees' State Insurance Corporation
through its Chairman
Panchdeep Bhawan
Kotla Road
New Delhi - 110 003. Respondent

(By Shri G.R.Nayyar, Advocate)

O R D E R (Oral)

By Reddy, J.

The applicant was appointed as Artist in the Employees' State Insurance Corporation in 1980 in the pay scale of Rs.550-750. Section 17(2)(a) and (b) of the Employees State Insurance Act, 1948 or amendment act of 1989 read as under:

"Section 17-[(2)(a): The method of recruitment, salary and allowances, discipline and other conditions of service of the members of the staff of the Corporation shall be such as may be specified in the regulations made by the Corporation in accordance with the rules and orders applicable to the officers and employees of the Central Government drawing corresponding scales of pay:

Provided that where the Corporation is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government.

(b) In determining the corresponding scales of pay of the members of the staff under clause (a), the Corporation shall have regard to the educational qualifications, method of recruitment, duties and responsibilities of such officers and employees under the Central Government and in case of any doubt, the Corporation shall refer the matter to the Central Government whose decision thereon shall be final.]

2. Relying upon the above provisions the applicant submits that the pay scale of the Artists should have been revised by the respondents so as to be in conformity with the pay scales of officers drawing corresponding scales of pay under the Central Government.

3. It is the grievance of the applicant that though the respondents had revised the pay scales of other categories of posts, in accordance with the pay scales of the Central Government officers, the pay scale of the post of Artist has not been revised. The applicant has made several representations to the respondents but no action has been taken by the respondents in revising the pay scales of the applicant. It is also stated that Artist¹ in Directorate of Advertising and Visual Publicity (DAVP), the pay scale of Artists ~~is~~ Rs.7500-12000 whereas the pay scale of Artists in the ESI Corporation is only Rs.5000-8000.

4. In the reply, it is stated by the respondents that the respondents denied that the pay scale of the post of Artist was not revised in accordance with qualification, method of recruitment, duties and functions as applicable to the applicant's counter parts in the Central Government. It has also stated that the amendment Act of 1989 did not make any material difference in the pay scales of employees of

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the Corporation. Even prior to 1989, the pay scales of the employees of the Corporation were at par with the pay scales of the corresponding categories in the Central Government and no change was brought about by the amendment made in 1989. (15)

5. We have carefully considered the pleadings as well as the arguments advanced on either side.

6. It is true that as per Section 17 of the amendment Act of 1989, the employees of the Corporation were entitled for corresponding scales of pay of the officers and employees of the Central Government but as contained in Sub-section (b), in determining the corresponding scales of pay of the members of the staff under clause (a) the Corporation shall have regard to the educational qualifications, method of recruitment, duties and responsibilities of such officers and employees under the Central Government. Hence, the contention of the applicant that the post of Artists in the Corporation is corresponding to the posts in DAVP and hence they are ~~to~~ entitled for the pay scale of Artist in DAVP, is not tenable. It is clearly stated in the reply that the Artist in the Corporation was only required to possess the diploma in Fine Arts whereas the post of Artist in DAVP was to have degree or diploma in fine arts/Commercial art with experience of two/three years in commercial art in an Advertising Agency or a firm of standing or a Govt. Organisation. It is, therefore, evident that the post of Artist in DAVP is superior than the post of Artist in the Corporation as the experience is an essential ingredient of the post

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of Artist in DAVP. It is also evident from the averments made in the reply, that the pay scales of the posts in the Corporation would with reference to the duties and functions and responsibilities were almost identical with corresponding pay scales in the Central Government. Hence, in fact, the amendment of 1989 did not bring about any change in their pay scales. Eventually, the question, in this case, is that whether the corresponding scales of the Central Government officers are given to the officers in the corresponding posts in the Corporation or not? As it is stated in the reply that the equality has been considered and fixed by the concerned authority, it is not open to us to interfere with the same and do the exercise of corresponding of the pay scales of the posts in the Corporation to that in the Central Government.

7. The OA is also appears to be belated. The grievance of the applicant arose in 1989 when the amendment Act of 1989 has been passed when it is stated that the applicant had made representation in 1991 and in 1992. The applicant therefore should have been approached this court within the period of limitation as stipulated in Section 21 of the Administrative Tribunal's Act, 1985.

8. In the circumstances, the OA fails and is accordingly dismissed. No costs.

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(SMT. SHANTA SHAstry)
MEMBER(A)

Om Sripad
(V.RAJAGOPALA REDDY)
VICE CHAIRMAN(J)