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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A. No. 740/96

New Delhi; this the 26th day of August, 1997.

HON'BLE MR. S. R. ADIGE, MEMBER(A)

HON'BLE DR. A. VEDAVALLI, MEMBER(J)

1. All India P & T Civil Wing Non-Gazetted Employees Union,
T-16, Atul Grove Road,
New Delhi - 110001.

2. Shri Amrit Parkash,
Ferro Printer,
S.E's Office,
Department of Communications,
Curzon Road Barrack,
New Delhi

.... Applicants

(By Advocate: Shri K.L. Bhandula)

VERSUS

1. Union of India through
Secretary to the Govt. of India,
Ministry of Communications,
Sachar Bhawan, New Delhi

2. The Chairman,
Department of Telecommunications,
Sachar Bhawan,
New Delhi - 110001

3. Secretary to the Govt. of India,
Ministry of Finance (Dept. of Expenditure)
North Block,
New Delhi

.... Respondents

(By Advocate: Shri V.K. Mehta)

JUDGMENT

HON'BLE MR. S. R. ADIGE MEMBER(A)

Applicant Union seeks quashing of respondents' letter dated 21.11.95 (Annexure; I) and revision of pay scales of Ferro Printers working in the Department of Telecommunications from Rs.825-1200 to Rs.975-1540 w.e.f. 1.1.88, on par with Ferro Printers working in OPWD and other departments together with arrears.

2. Shortly stated, the 4th Pay Commission recommended the scale of Rs.825-1200 to the Ferro Printers of CPWD and also to P & T Civil Wing to which applicants belong. In some other Central Govt. Departments e.g. BPE, the 4th Pay Commission recommended a higher pay scale of Rs.975-1540 to Ferro Printers. CPWD Ferro Printers filed OA No.77/88 claiming the pay scale of Rs.975-1540 which was allowed by judgment dated 28.7.93 to which one of us (Shri S. R. Adige, Member(A).) was a party. The CPWD filed SLP(C)No.5395/94 in the Hon'ble Supreme Court against the judgment dated 28.7.93, but issued orders revising the pay scale of CPWD Ferro Printers subject to the outcome of the SLP. That SLP was dismissed by the Hon'ble Supreme Court by order dated 4.4.95. Meanwhile the applicant Union requested respondents to revise the pay scale of Ferro Printers of P & T Civil Wing to bring them on par with CPWD Ferro Printers. Respondents advised them vide letter dated 24.2.95 (Annexure-VI) to represent their case before the 5th Pay Commission which had been set up in the meantime. On receipt of Respondents' letter the applicant Union filed OA No.1040/95 which was dismissed at admission stage by order dated 6.6.95 in the background of Respondents' letter dated 24.2.95 with liberty given to them to raise the issue subsequently if the department or the 5th Pay Commission did not grant the relief to their satisfaction.

3. Thereafter in reply to another letter from applicant Union respondents informed them vide

(6)

letter dated 21.11.95 (Annexure-RII) that upon further examination of the matter in consultation with Finance Ministry, it had not been found possible to revise the pay scale of Ferro Printers of P & T Civil Wing as the 5th Pay Commission was already seized of the matter, and applicant Union was advised to await the 5th Pay Commission's recommendations.

4. Applicant Union contends that the 5th Pay Commission has informed them vide letter dated 11.9.95 (Annexure-IX) that their recommendations would be only prospective in character, while their claim is for parity from 1.1.88 itself. Under the circumstances, being dissatisfied with the contents of respondents' letter dated 21.11.95 they have filed this OA claiming that they are as OPWD Ferro Printers performing the same duties and functions and have the same responsibilities and base their claim on the principle of "Equal Pay for Equal Work."

5. We have heard Shri Bhandula for applicants and Shri V.K.Mehta for respondents. We have also perused the materials on record and given the matter our careful consideration.

6. A comparison of the Recruitment Rules in respect of Ferro Printers of Civil Wing of Telecommunication Dept. & OPWD shows that the former are recruited 100% by promotion from amongst Gaftaries with 5 years' regular service

(V)

in Telecom. Dept. failing which by transfer while in CPWD 50% posts are filled up by direct recruitment failing which by transfer and 50% by promotion from amongst Class IV Staff with atleast 10 years' experience in the grade and 1 year experience in Ferro Printing work, subject to passing of a trade test. Thus in CPWD there is a considerable element of direct recruitment for which Matriculation or equivalent an essential qualification as well as atleast 2 years' experience of operating Ferro Machines.

7. Applicants' counsel Shri Bhandula has relied upon the CAT PB Judgment in V.P. Panchal & Ors. Vs. Union of India & Ors 1996 (2) (CAT) AISLJ 682 that mere mode of recruitment cannot be the basis to violate equal pay for equal work, but in the present case not only is the mode of recruitment as regards applicants different from those of CPWD Ferro Printers, but the educational and experience qualifications themselves, as noticed above, are different.

8. In Secretary, Finance Department & others Vs. West Bengal Registration Service Association & others 1993 (24) ATC 403 the Hon'ble Supreme Court has held in para 12 thus

"Ordinarily a pay structure is evolved keeping in mind several factors, e.g., (i) method of recruit; (ii) level at which recruitment is made; (iii) the hierarchy of service in a given cadre, (iv) minimum educational/technical qualifications required; (v) avenues of promotion, (vi) the nature of duties and responsibilities, (vii) the horizontal and vertical relativities with similar jobs, (viii) public dealings, (ix) satisfaction level, (x) employer's capacity to pay , etc."

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(18)

9. Clearly therefore the minimum educational/technical qualifications required form an important feature of any pay structure, apart from duties, responsibilities, functions etc., and there has to be similarity in the minimum educational/technical qualifications between two sets of posts for equality in pay scales to be granted under law because otherwise it would be treating unequal equally which would be violative of Article 14 of the Constitution. In the present case the minimum educational/technical qualifications required for Ferro Printers in P & T Civil wing of Telecom. Dept. are dissimilar from those required for CPWD Ferro Printers, and under the circumstance granting of a pay scale to applicants equal to that of CPWD would violate Article 14 of the Constitution for the reasons explained above.

10. We therefore find ourselves unable to grant the relief sought for by applicants. However, we make it clear that the contents of this judgment will be without prejudice to any claims of the applicants in relation to the recommendations of the 5th Pay Commission which are present awaiting the final orders of Govt.

11. This OA is disposed of in terms of para 10 above. No costs.

A. Vedavalli
(DR. A. VEDAVALLI)
MEMBER(J)

S. R. Adige
(S. R. ADIGE)
MEMBER(A)