

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 702/94

New Delhi, this the 10th of November, 1994

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

Shri S.N.Sharma,
s/o Late Shri R.N.Sharma,
R/O House No. 7285, Gali No. 2,
Prem Nagar, Near Birla Mill,
Delhi- 7 .

Applicant

(By advocate Sh. S.Bisaria.

Versus

1. Lt.Governor through
Chief Secretary,
Govt. of NCT,
5, Sham Nath Marg,
Delhi.
2. Director of Education,
Govt. of NCT
Old Sectt., Delhi.

Respondent

(By advocate Sh. Arun Bhardwaj)

ORDER(ORAL)

HON'BLE SHRI J.P.SHARMA, MEMBER(J)

The applicant was initially appointed as a Glass Blower in the grade of Rs. 75-95/- in the year 1967. This grade, in the Third Pay Commission, was replaced by pay scale of Rs. 260-350. There has been only two posts of Glass Blower in that scale as evident by the Annexure R1/2 with the counter. The Director of Education with the

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concurrence of the Finance Ministry issued an order on 19.2.1990 whereby certain isolated posts were clubbed together in different pay scales and selection grade was granted in the higher scale to give benefit to the staff working in the particular scales of pay. The grievance of the applicant is that for the cadre of Glass Blower the respondents have arbitrarily fix two different scales in the selection grade i.e. one 330-450 and the other 390-530. It has been challenged that this action of the respondents is violative of article 14, 16 and 21 of the Constitution of India in as much as the trade Glass Blower is one and the same inducted for the purpose with similar and same qualification performing and discharging the same duties having the same responsibility for the same trade. The relief prayed for by the applicant is that the respondent be directed to implement the order dated 19.2.1990 and the applicant be granted the selection grade of the post of Glass Blower in the scale of 390-530 and he be paid the arrears alongwith 12% interest per annum.

2, The respondents contested this application and has taken a number of pleas. It is stated that the fixation of the selection grade in two different scales is not violative of the Article 14, 16 and 21 of the Constitution of India. They have also given the clarification etc. for the said post and annexed the recruitment rules for the Glass Blower of both the categories in the pre-revised scale of Rs. 110-180 and Rs. 75-95. It is further stated

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that the applicant is already fixed in the scale of 950-1400 but this fact is denied by the applicant's counsel asserting that the applicant has been fixed in scale of Rs. 950-1500.

3. We have heard the counsel for the applicant. We have gone through the pleadings and heard the learned counsel for the respondent at considerable length. The facts in the pleadings as well as in the counter are totally vague and do not convey proper understanding regarding the pay scales of the applicant which he was getting at the time of revision of pay scale by the 4th Pay Commission. In any case we have considered the matter giving an option to the counsel of the applicant to substantiate the same by further facts but the learned counsel for the applicant desired that the application should be disposed off on the basis of pleadings on record.

4. The only relief claimed by the applicant is for the implementation of an order dated 19.2.1990. This order mentions at item No. 12 and 14. At item No. 12 the trade of Glass Blower has two posts and it has been clubbed with the trade of Mechanic-cum-Carpenter which is isolated post and jointly to both these trades one selection grade in the scale of Rs. 330-450 has been sanctioned at item No.14. There are three trades i.e. Glass Blower, Carpenter and Stores Keeper each having one post and only one selection grade has been sanctioned for all these three posts in the pay scale of 390-530. The contention of the counsel of the applicant that the applicant should be given the selection grade in the scale of Rs. 390-530 cannot be accepted. It is

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because of reason that the applicant has joined earlier as Glass Blower in the scale of Rs. 75-95 which was revised in the Third Pay Commission to the scale of 260-350 and the recruitment rules filed by the respondent's counsel with the counter goes to show that there are two such posts of Glass Blower Class-IV non-ministerial, non-selection with only a certificate of diploma in glass blowing. The other post of Glass Blower is single post which is Class-III post non-gazetted, non-ministerial and in the scale of Rs. 110-180 which has been revised in the Third Pay Commission to Rs. 260-400 and the requisite qualification besides the certificate and diploma, there must be practical experience in the trade which is not essential in the case of Glass Blower Class-IV non-ministerial post in the scale of Rs. 260-350. The applicant cannot come forward in the year 1994 and claim the revision of pay scales on the basis of equation of pay and post when already Fourth Pay Commission has considered the matter and given its recommendations which have also been implemented w.e.f. 1.1.1986. Request, if any, of the applicant cannot be maintained at this stage when Fifth Pay Commission come into existence. Even he may think that the claim is justified but delay and laches defeats his right and also the remedy available to him is lost by lapse of time. It is, therefore, held that the applicant has rightly been placed in the scale of 260-350 in the Third Pay Commission.

5. The grievance of the applicant is that he has ^{not} been given the selection grade in the scale of 390-530. He cannot get the selection grade obviously because the

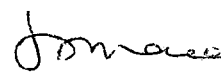
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pre-revised scale of pay in the Third Pay Commission was 260-350 and not 260-400, the later pay scale was placed in the selection grade of Rs. 390-530/-.

6. Considering the whole of the matter we hereby dispose off the application with the direction to the respondents that the applicant should be paid the selection grade of 330-450 w.e.f. 1.1.76 if he has already not been given the benefit as per the orders dated 19.2.1990(annexure 2). Respondents are directed to comply with the direction to implement the said order dated 19.2.1990 and give the applicant all the benefits till the revision of pay scale by the 4th Pay Commission. If he is entitled to revised pay scale in the 4th Pay Commission he should also be given the benefit according to law and the revised pay scale of effective from 1.1.1986. The prayer for interest is disallowed as the applicant has come too late before us in 1994. The application is disposed off accordingly with a direction to the respondents to comply with the order dated 19.2.1990 ^{if not already complied} within a period of three months of the receipt of this order. No costs.


(B.K.SINGH)
MEMBER(A)


(J.P.SHARMA)
MEMBER(J)