

(25)

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. No. 2527 of 1989

New Delhi, dated the 2nd JANUARY 1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE Mrs. LAKSHMI SWAMINATHAN, MEMBER (J)

S.K. Sharma (deceased)	(2) S/Shri V.K.Sharma
through L.Rs	(3) Ashok Sharma
(1) Mrs. Urmila Devi	(4) Sanjay Sharma
W/o late Shri S.K. Sharma,	(5) Rajeev Sharma; all
C-12/192, Yamuna Vihar,	sons
Delhi-110053.	... APPLICANT

(In person)

VERSUS

Union of India through

1. The Secretary,
Ministry of Labour,
Employment & Training,
Shram shati Bhawan,
New Delhi.

2. The Chief Secretary,
Delhi Administration,
5, Alipur Road,
New Delhi.

... RESPONDENTS

(Shri Rajinder Pandita)

J U D G M E N T

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant (since deceased) who was
employed as a P.T.I. in an I.T.I., Arab Ki
Sarai, New Delhi had sought

- i) removal in disparities in service conditions and pay scales between PTIs of Schools and PTIs of ITIs falling under Delhi Administration and for full parity between the two sets of employers.
 - ii) Arrears for senior scale/selection grade from the time he completed 12 years of service as granted to PTIs of schools.
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iii) Selection Grade from 5.9.71 as granted to Delhi School PTIs.

2. The application which was pursued by his Legal Representatives was disposed of by judgment dated 1.2.94 holding that applicant having completed 12 years of service was entitled to be placed in the senior pay scale of Rs.1640-2900. Respondents were directed to make necessary payments to his widow.

3. Against that judgment Delhi Administration filed SLP (C) No. 778/95 in Hon'ble Supreme Court which was renumbered as C.A. No. 5675/97 and disposed of by order dated 19.8.97 by which the appeal was allowed, the judgment dated 1.2.94 was set aside and the matter was remanded back to the CAT, P.B. for fresh adjudication in the same manner as in the case of Shri H.L. Khurana and Others.

4. Shri H.L. Khurana and Others were working as Language Instructors in ITI, Arab Ki Sarai had filed O.A. No. 36/89 seeking the same service conditions and emoluments which were allowed to P.G. Teachers under Delhi Administration together with arrears and interest thereon. That O.A. was partly allowed by judgment dated 5.6.92 against which U.O.I. filed SLP (C) No. 17028/93 in Hon'ble Supreme Court who by their order dated 17.3.94 set aside the judgment dated 5.6.92 and remitted the matter back to the

Tribunal for fresh determination in the light of the principles laid down in various apex court judgments including State of M.P. Vs. P. Bhartiya & Ors. 1993 (1) SCC 539 which cast upon those who invoke ^{the} doctrine of 'equal pay for equal work' the burden of proving that they discharged similar duties, functions and responsibilities as those with whom they were claiming parity.

5. Accordingly O.A. No. 36/89 was reheard in the presence of both parties, and as applicants failed to discharge that burden, the O.A. was dismissed by judgment dated 17.10.94. In so far as the lack of promotion opportunities voiced by those applicants was concerned the Tribunal recommended that their case be referred to the 5th Pay Commission, which had still to submit its report till then.

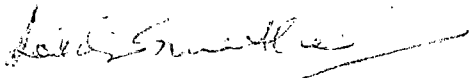
6. Pursuant to the Hon'ble Supreme Court's order dated 19.8.97 fresh notices were ordered to be issued to both parties to appear and be heard on behalf of the late applicant. His two sons and legal representatives S/Shri Ashok Sharma and Rajeev Sharma appeared and stated that the other two sons and LRs namely S/Shri V.K.Sharma and Sanjay Sharma were residing with their mother Smt. Urmila Devi and were aware of the case. Shri Rajinder Pandita appeared for the respondents.

7. Both sides were heard. S/Shri Ashok Sharma and Rajeev Sharma averred that the Hon'ble Supreme Court's judgment dated 17.3.94 covered not only H.L. Khurana's case (Supra) but also SLP (C) No. 4125/92 UOI & anr. Vs. M.S. Akhtar but despite that judgment Shri Akhtar had been allowed to avail of the benefits granted to him by the Tribunal's judgment dated 26.11.91 i.e. O.A. No. 330/89 against which that SLP (C) No. 4125/92 had been filed and despite the Tribunal's subsequent order dated 7.11.94 in that O.A. No materials were furnished by them to substantiate this assertion, but even if for a moment it were accepted as correct, that by itself does not advance applicants' claims to the relief prayed for. In accordance with the Hon'ble Supreme Court's order dated 19.8.97 this O.A. has to be disposed of in the same manner as in H.L. Khurana's case (supra) and in Khurana's case (supra) the Hon'ble Supreme Court had categorically held that in the background of various apex court judgments including State of M.P. Vs. P. Bhartiya & Ors. 1993 (1) SCC 539 the burden lays upon those who invoke the doctrine of "equal pay for equal work" of proving that they discharged similar duties, functions and responsibilities as those with whom they were claim parity.

/r


8. S/Shri Ashok Sharma and Rajeev Sharma failed to discharge the burden when they appeared before us as they did not advance a single argument in support of their claim. Nor did they seek an adjournment to enable them to engage a counsel to argue their case. As mentioned earlier, all that they stated was that despite the Hon'ble Supreme Court's judgment dated 17.3.94 Shri M.S. Akhtar had been allowed to continue to enjoy the benefits flowing out of the Tribunal's judgment.

9. In view of the foregoing we have no option but to dismiss this O.A. No costs.


(Mrs. LAKSHMI SWAMINATHAN)

Member (J)

/GK/


(S.R. ADIGE)

Vice Chairman (A)