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GENERAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. 330 of 1989

New Delhi this the 7th day of November, 1994

Mr. Justice S.K. Dhaon, Vice-Chairman
Mr. B.N. Dhoundiyal, Member

Shri Mohd. Salim Akhtar
R/o 27, Hayat Manzil,
P.O. Dargah,
Hazrat Nizamuddin,
New Delhi-110013.

...Applicant

By Advocate Shri R.K. Kamal

Versus

1. Union of India through the
Secretary,
Min. of Labour,
Employment & Training,
Shram Shakti Bhawan,
New Delhi-1.

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

...Respondents

By Advocate Shri B.S. Gupta

ORDER

Mr. Justice S.K. Dhaon, Vice-Chairman

By a judgment dated 26.11.1991 in this O.A., which has been preferred by Mohd. Salim Akhtar alone, this Tribunal (Hon'ble Mr. Justice A. Banerji, the then Chairman and Hon'ble Mr. D.K. Chakravorty, the then Member (A)) applying the principle of "equal pay for equal work", inter alia, directed the respondents to sanction the Selection Grade of Rs.1640-2900 for Librarians in the Industrial Training Institutes.

2. Suffice to note that the applicant was on the date of the presentation of this O.A. and is even now working as a Senior Librarian, Arab-Ki-Sarai, Delhi.

3. The respondents felt aggrieved by the

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aforesaid judgment of this Tribunal. They, therefore, preferred a Special Leave Petition in the Hon'ble Supreme Court. The Special Leave Petition was admitted and thereafter converted into Civil Appeal No.2559 of 1994. On 17.03.1994, the Supreme Court allowed the said appeal, set aside the judgment and order of this Tribunal and remitted the matter to this Tribunal to be examined in the light of its decision in the case of State of M.P. VS. Pramod Bhartiya's and Others, 1993(1) SCC 539. Their Lordships left it free to the parties to adduce any evidence in the remanded proceedings. Their Lordships further directed that this Tribunal will thereafter consider the matter on merits in the light of the principles enunciated in Bhartiya's case and pass a fresh order.

4. Additional affidavits have been exchanged between the parties. Counsel for the parties have been heard.

5. The controversy is whether there should be parity in the grades of the Librarians employed in the Industrial Training Institutes run by the Delhi Administration and the Librarians employed in the Schools run by that Administration. According to the applicant, on the basis of the recommendation of the 4th Pay Commission only one grade of Rs.1400-2600 was granted to the Librarians of the Industrial Training Institutes as well as the Librarians of the Schools with effect from 1.1.1980. The applicant has asserted that

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the parity was disturbed between the librarians of the aforementioned two institutions when the recommendation of the D.P. Chattopadhyaya Commission was received. For the teachers of the schools, revised scales were introduced with effect from 1.1.1986 under the Government of India's letter dated 12.08.1987. By a letter dated 16.12.1987 it was clarified that the said revised scales would be applicable to other categories of employees in the schools, including the librarians. Under the revised scales, a time-bound senior scale of Rs.1640-2900 after 12 years service was given to all the librarians in the schools. The representation made by the applicant for giving him the revised scales so as to bring him on par with the librarians of the schools was turned down.

6. It appears to be an admitted position that the Industrial Training Institutes are governed by the instructions issued by the Ministry of Labour whereas the schools run by the Delhi Administration are governed by the instructions issued by the Ministry of Human Resources & Development. Thus, it is evident that the nodal ministries of the two institutions are different.

7. There appears to be some confusion that the revised scales vis-a-vis the teachers and the librarians of the schools were introduced on account of the recommendation of the National Commission on teachers under the Chairmanship of D.P. Chattopadhyaya. The communication dated 12.08.1987 of the Ministry of Human Resources

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and Development (Department of Education) is before us. The subject of this communication is revision of pay scales of school teachers. It is clearly recited in the said communication that the recommendation of the National Commission on teachers is under consideration and a decision thereon has yet to be taken and the same would be done as soon as possible. However, in partial modification of the Finance Ministry's Notifications No.F.15(1)-IC/86 dated 13.09.1986 and 23.09.1986 it has been decided that the revised pay scales of all school teachers in the Union Territories except Chandigarh will be as mentioned therein. We find that a selection scale has been introduced by this communication and the same would be applicable after 12 years of service.

7A. By the communication dated 16.12.1987, the Ministry of Human Resources and Development in the Department of Education informed the Director of Education, Delhi Administration that the benefit of the revised grade as contained in the Ministry's communication dated 12.08.1987 would stand extended to various miscellaneous/allied categories of teachers like music teachers etc. and including Librarians. That is how the Librarians in the schools run by the Delhi Administration were given the benefit of the revised scales.

7B. The communication dated 17.08.1988 of the Principal of the Industrial Training Institute, Arab-ki-Sarai, Delhi to the applicant indicates that the representation made by the applicant was examined in the light of the instructions No.F.7(51)E-III/86 dated 14.5.85

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of the Government of India and the Ministry of Finance. It is also stated in the said communication that the rules do not permit the creation of a selection grade vide Directorate of Training and Technical Education's letter No.135(37)/Trg./Admn./86/11951 dated 22.07.1988.

8. Before we deal with the additional pleadings of the parties, we may in brief refer to letter dated 16.12.1987 of the Deputy Secretary to the Government of India in the Ministry of Human Resources Development, Department of Education. This letter is addressed to the Director of Education, Delhi Administration. This is a reference to the letter dated 12.08.1987, referred to above. It is emphasised that the librarians or equivalent teaching posts carrying any other designation are also eligible for the grant of teaching allowance. We fail to understand as to how this letter advances the case of the applicant although reliance has been placed by the counsel for the applicant. This letter has no reference at all to the librarians employed in the ITIs. It is confined to the librarians employed in the schools.

9. The averments made in the additional affidavit filed by the applicant are these. The librarians of the ITIs and the librarians of the schools are employees of the Government of National Capital Territory of Delhi. They are appointed by the same employer. The nodal Ministry of the former is the Ministry of labour while the nodal Ministry of the latter is the Ministry of Human Resources & Development. However, full administration and the final

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control is of the Delhi Administration headed by the Chief Secretary. The duties and functions of the librarians of both the institutions are similar. Their duties and functions are identical. The librarians of the ITIs have no avenues of promotion in their entire career. By giving selection grade to the librarians of the schools, an avenue of promotion has been provided for, however, such an avenue has been denied to the librarians of the ITIs.

10. The material averments in the reply filed by Shri V.K. Jha, Joint Director in the Directorate of Training & Technical Education are these. In the Department of Training and Technical Education, the minimum qualification for entry as librarian is Matric plus Diploma in Library Science in the scale of Rs.1400-2600 and the selection is done on the basis of the aforesaid qualifications plus one year's experience. While in the Education Department of Delhi minimum qualification for appointment of a Librarian is Matriculate/Higher Secondary plus certificate in Library Science for a Junior Librarian in the scale of Rs.1400-2600. In the case of a Senior Librarian, the minimum qualification is graduate from a recognised institution with diploma in Library Science. The selection is done on the basis of the 80% marks in academic and professional qualifications with due weightage of divisions at different levels plus one mark for each year of experience with maximum of 10 marks for ten or more years of experience and 10 marks for personality test. In the Industrial Training Institutes, the Librarians contain

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not more than 6,000 books in each of the Institute which deal with technical subjects like welding, electrician, wireman, lineman etc. and there are no books of academic nature. In the Education Department of Delhi, the number of books ranged from 1500 to 20,000 according to the status of the school, i.e., Middle, Secondary or Senior Secondary Schools. These books mainly deal with academic disciplines and less vocational subjects like welding, electrician etc! In the case of Directorate of Training and Technical Education, Libraries are not given any specific grade by the Ministry of Labour while in the case of Libraries of Education Department, they are graded as B by the Ministry of Human Resources & Development.

11. In Pramod Bhartiya's case, their Lordships of the Supreme Court have held that "equal pay for equal work" is a mere facet of Article 14 of the Constitution. A librarian in the ITI and a librarian in the school constitute two separate classes. It is immaterial that the employer in both the cases is the same. The classification on the face of it, is neither irrational nor unreasonable. It cannot be said that this is case where equals have been made unequals and vice-versa. As highlighted in the additional-affidavit of Shri Jha it cannot be said that a librarian of the ITI discharges duties, functions and responsibilities similar to those discharged by a Librarian of a school. It follows that the applicant is not entitled to any relief on the application of the principles of equal pay for equal work.

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12. The grievance of the applicant that he is being treated arbitrarily in so far as no avenue of promotion has been provided to him cannot be redressed by us in these proceedings. It falls in the realm of a policy-decision. We, however, recommend that the cases of the librarians of the ITIs may be referred to the 5th Central Pay Commission which has been constituted recently.

13. This application fails and is dismissed but without any order as to costs.

B. N. Dhaoniyal
(B.N. DHOUNDIYAL)
MEMBER (A)

S.K. Dhaon
(S.K. DHAON)
VICE CHAIRMAN

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