

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA No.36/1989

NEW DELHI THIS THE 17TH DAY OF OCTOBER, 1994.

**MR.JUSTICE S.K.DHAON, VICE-CHAIRMAN**  
**MR.B.N.DHOUNDIYAL, MEMBER(A)**

1. Harbans Lal Khorana  
S/o Ram Narain Khorana  
R/o G-156, Naraina Vihar,  
New Delhi-28.
2. P.S.Pali  
S/o H.N.Pali  
R/o S-12/576 R.K.Puram,  
New Delhi-110022.
3. U.D.Bajaj  
S/o Tagga Ram Bajaj  
R/o 195 Model Town  
8 Marla  
Gurgaon(Haryana)
4. S.P.Khanna  
S/o Mool Raj Khanna  
R/o A-2/B, MIG Flat No.76-B,  
Paschim Vihar  
New Delhi.
5. S.L.Gautam  
S/o Kishori Lal  
R/o J&K -80  
Laxmi Nagar  
Delhi-110092.
6. Ms.Nirmal Kumari Seth  
D/o H.C.Seth  
R/o Sec II/75 Sadiq Nagar  
New Delhi.
7. Umesh Kumar  
S/o Har Prasad Garg  
R/o 22/1072, Lodi Colony  
New Delhi-110003.
8. Surinder Kumar Malhotra  
S/o H.L.Malhotra  
R/o D-68, Moti Nagar  
New Delhi-15.
9. Karan Singh  
S/o Kabool Singh  
A-4/2 Bhajanpura,  
New Delhi-53
10. Mrs.Prem Verma  
W/o H.C.Verma  
R/o 29/17, East Patel Nagar  
New Delhi-110008.
11. Raghubir Singh  
S/o M.Prasad  
R/o C-510, Saraswati Vihar,  
Delhi-34.
12. Mrs.Rani Bai Sehgal  
W/o K.K.Sudan  
R/o B2/423 Yamuna Vihar  
Delhi-53.

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Applicants

BY ADVOCATE SHRI R.K.KAMAL.

Vs.

Union of India  
through

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(1) The Secretary  
Ministry of Labour, Employment  
& Training,  
Sharam Shakti Bhawan  
Rafi Marg  
New Delhi-1.

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

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Respondents

BY ADVOCATE SHRI B.S.GUPTA.

ORDER(ORAL)

JUSTICE S.K.DHAON:

Relying upon the principle of 'equal pay for equal work', this Tribunal by its judgement dated 5.6.1992 directed that the applicants who are Language Instructors in the Industrial Training Institute, Delhi, should be given selection scale so as to keep them on par with the Post Graduate Teachers of the schools run by the Delhi Administration.

2. Feeling aggrieved, the Union of India & anr. preferred a Special Leave Petition in the Hon'ble Supreme Court. It was registered as Civil Appeal No.2558 of 1994. On 17.3.1994, the Supreme Court allowed the appeal and remanded the matter to this Tribunal to be reconsidered in the light of the judgement in the case of **State of Madhya Pradesh Vs. Pramod Bhartiya & others.(1993) 1 SCC 539**).

3. Both the sides have filed additional affidavits. We examined the material on record in detail and we have heard the counsel for the parties for quite some time.

3. As highlighted by their Lordships in **Pramod Bhartiya's** case(supra), 'equal pay for equal work' is a mere facet of Article 14 of the Constitution. Therefore, the petitioners/applicants who invoke the said doctrine must not only aver but also prove that they discharge similar duties, functions and responsibilities as of those with whom they are claiming a parity. We shall, therefore, examine the averments

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made by either side in the aforesaid background.

4. The applicants are Language Instructors employed in the Industrial Training Institute under the Delhi Administration. Certain schools are run by that Administration and in those schools there are Post Graduate Teachers. The nodal Ministries of the Language Instructors and the Post Graduate Teachers are, however, different. The former is under the Ministry of Labour while the latter is under the Ministry of Human Resources Development.

5. It is the common case of the parties that till the recommendations of the Third Pay Commission and its implementation, the applicants and the Post Graduate Teachers were paid the same emoluments at the same grades. The parties are, however, at variance in respect of the recommendations of the Fourth Pay Commission viz. the applicants and the Post Graduate Teachers of the schools. We shall deal with this a little later. However, we may indicate at this stage that according to the respondents, one of the reasons for not giving higher grades to the applicants as in the case of Post Graduate Teachers is the recommendations of the Fourth Pay Commission.

6. On 20.11.1970, a communication was sent by the Directorate of Employment Training & Technical Education to the Deputy Secretary in the Ministry of Labour Employment and Rehabilitation in the Department of Labour to the Government of India. The subject of this communication was the revision of pay scale of the post of Language Instructor in the I.T.I Delhi. The contents of the communication, as material, are these. The pay scale of the Language Instructors in the Stenography Trade in the Industrial Training Institute is identical to that of the Post Graduate Teachers in the Government Higher Secondary Schools, Delhi. The pay scale of the

Post Graduate Teachers in the Government Higher Secondary Schools, Delhi was revised. The Language Instructors in the Industrial Training Institutes have made representations for the upward revision of their pay scale so as to bring the same in line with the pay scale of Post Graduate Teachers. The educational and other qualifications prescribed for the posts of Language Instructors in the Industrial Training Institutes and the Post Graduate Teachers in the Higher Secondary Schools are identical except for a minor variation in respect of teaching experience. The duties performed by the Language Instructors in I.T.Is are similar to those performed by the Post Graduate Teachers(English and Hindi) in the Higher Secondary Schools of the Delhi Administration. Thus there is adequate justification for revision of pay scale for the post of Language Instructor so as to bring it <sup>on</sup> /par with the pay scale of the Post Graduate Teacher in Higher Secondary Schools keeping in view <sup>of both their</sup> recruitment rules /and /work-load. This was, as already seen, way back in 1970. We shall make our comments on this document a little later.

7. We may now come to the additional affidavit filed by the applicants after the receipt of the records from the Supreme Court. The material averments therein are these. The Language Instructors of the I.T.Is and the Post Graduate Teachers of the schools have a common employer. The functions and duties of both the categories i.e. Language Instructors of the I.T.Is and the Post Graduate Teachers of the schools are similar. A Language Instructor teaches at a higher level than a Post Graduate Teacher in a Senior Secondary School. Similarity of duties and functions, qualifications and experience etc. was clearly emphasised even by the Delhi Administration in the letter dated 20.11.1970(referred to above). There was a parity of scales between the two categories even upto the implementation of the recommendations of the Fourth Pay Commission. Language Instructors have no avenue of promotions in their entire career. The employer, by granting selection

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grade to the Post Graduate Teachers, has provided avenue of promotion to them but the same employer has denied any avenue of promotion to the Language Instructors.

8. The additional reply filed by and on behalf of the respondents by Shri V.K.Jha, Joint Director, Directorate of Training & Technical Education, Delhi may now be read. The material averments therein are these. The service conditions of Language Instructors are governed by instructions issued by the Ministry of Labour, Directorate General of Employment and Training. The service conditions of the Post Graduate Teachers are governed by the Delhi School Education Act & instructions issued Rules, 1973 and by the Ministry of Human Resources & Development. The Language Instructors are selected by the Directorate of Training & Technical Education on the basis of the qualification of MA, B.Ed with one year/teaching experience while in the Directorate of Education, the Post Graduate Teachers are selected on the basis of 80% marks to educational qualification with due weightage to divisions at the different in qualifications of M.A.B.Ed levels/plus one mark for each year of experience with a maximum of 10 marks allocated for the teaching experience and 10 marks are awarded for personality/interview/personal traits. Generally there is influx from the Department of Training & Technical Education on account of the fact that the promotional avenues in the Education Department are much better than the Department of Training & Technical Education. Students imparted in the Department of Technical Education are/ instructions in the languages for preparing stenographers and teachers known as supporting teachers. Thus main emphasis is on stenography and typing. In the Education Department of Delhi, the Post Graduate Teachers(Language) are employed to train students in 10+2 system so that the students become competent to be selected for LLB, MBBS, ENGG. etc. In Training & Technical Education Department, Language Instructors are required to

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teach for 20 periods per week with each period having a duration of 1 hour, the total teaching hours being 20 hours per week. In the Directorate of Education (Senior Secondary Schools) Post Graduate Teachers teaching languages are required to teach 36 periods of 45 minutes' duration each i.e. for 27 hours per week. The Language Instructors impart training to 20 students at a time while in the Senior Secondary Schools Post Graduate Teachers teach 42 students at a time in each period. The syllabus in the Directorate of Training and Technical Education for teaching languages is vocational oriented for preparing stenographers and typists etc. This syllabus is prescribed by the Ministry of Labour, Directorate General of Employment and Training. In the Education Department of Delhi, Board the syllabus is prescribed by Central/of Education and the main emphasis is on academic side and has nothing to do with vocational side. Even the Fourth Pay Commission did not recommend time scale or selection grade to the Language Instructors working in the Industrial Training Institutes. In the case of Post Graduate Teachers working in Senior Secondary Schools, Fourth Pay Commission recommended time scale after 12 years and selection grade after another 12 years of service in senior scale.

9. The aforesaid letter of the year 1970 appears to be the sheet-anchor of the applicants' case. We do not know under what circumstances the said letter was issued. The circumstances may have changed in the meanwhile. Moreover, the applicants have not filed any rejoinder-affidavit in reply to the affidavit of Shri V.K.Jha. Therefore, the averments of Sh.Jha cannot be brushed aside and we see no reason as to why the contents of the affidavit should not be taken into account.

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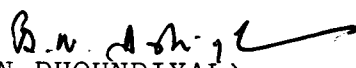
10. There appears to be a factual inaccuracy in the affidavit of Sh.Jha that a selection grade after 12 years of service was given to the Post Graduate Teachers of the Senior Secondary Schools on the basis of the recommendations of the Fourth Central Pay Commission. This was actually done on account of the communication dated 12.8.1987 of the Ministry of Human Resources & Development (Department of Education). According to the said communication, the recommendations of the National Commission on teachers were under consideration and a decision had yet to be taken on those recommendations. However, in partial modification of the Finance Ministry's Notifications No.F.15(1)-IC/86 dated 13.9.1986 and 23.9.1986, it had been decided that the revised pay scales of all school teachers in the Union Territories except Chandigarh will be <sup>as</sup> mentioned therein. The said communication introduced a selection scale which would be applicable after 12 years of service. However, the fate of this application will remain unchanged in spite of the fact that the selection scale had not been introduced by the Fourth Central Pay Commission but had been introduced by the communication of Ministry of Human Resources & Development dated 12.8.1987. We have already indicated that the averments made by Shri Jha in his affidavit have remained uncontroverted. We, therefore, conclude that neither the duties nor functions nor responsibilities of the Language Instructors ~~like~~ <sup>by Delhi</sup> ~~the applicants~~ of the Industrial Training Institutes run/ Administration are similar to those of the Post Graduate Teachers of the Senior Secondary Schools run by that Administration. We are, therefore, unable to grant any relief to the applicants.

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11. The grievance of the applicants that the Language Instructors in the Industrial Training Institutes have no further chances of promotion under the existing scheme applicable to the Institutes cannot be redressed by us in these proceedings. A policy-decision has to be taken by the relevant authority to give redress to the applicants. We take judicial notice of the fact that the Fifth Central Pay Commission has been constituted by the Central Government. We recommend that the case of the Language Instructors of the Industrial Training Institutes may be referred to that Commission.

12. This OA is dismissed but without any order as to costs.

  
(B.N.DHOUNDIYAL)  
MEMBER(A)  
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(S.K.DHAON)  
VICE-CHAIRMAN(J)