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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
DELHI.

O.A. No.1163/1988

Date of decision: September 28, 1989

Dr. Brij Mohan Sabharwal & Ors. .... Applicants.

Vs..

Dean, Maulana Azad Medical College  
& Ors.

.... Respondents.

O.A. 645/1989.

Dr. Vikash Kapila & Ors. .... Applicants.

Vs..

Dean, Maulana Azad Medical College ... Respondents.  
& Ors.

CORAM:

Hon'ble Mr. Justice Amitav Banerji, Chairman.

Hon'ble Mr. B.C. Mathur, Vice-Chairman (A).

For the applicants ... Shri V.S. Madaan & Mrs. K.K.  
Madaan, Advocates.

For the respondents ... Shri J.S. Bali, Counsel.

(Judgment of the Bench delivered by Hon'ble  
Mr. Justice Amitav Banerji, Chairman)

These two Applications raise identical questions and  
can be disposed of by a common judgment. The applicants  
are all qualified dentists possessing the Degree of  
Bachelor of Dental Surgery (BDS). They are all working as  
Junior Residents in Dental Wing of Maulana Azad Medical  
College, New Delhi. They are aggrieved by the fact that  
although they perform the similar work and have the same  
responsibilities as that of Doctor Vishruti Bagga and Dr.  
Ajay Gupta, Junior Residents (Dental) in the Lok Nayak  
Jai Prakash Narayan Hospital, yet they are not accorded

the same amount of emoluments as the above mentioned two Junior Resident.

While Dr. Vishruti Bagga and Dr. Ajay

Gupta get a pay of Rs.2400/- plus other allowances per month,

the applicants receive only Rs.1000/- (fixed) per month. The

applicants claim that they are entitled to equal pay for equal

work and this is being denied to them by the Management of the Maulana Azad Medical College. In other words, the applicants

claim that since they do the same type of work and carry the same type of responsibilities as that of Dr. Vishruti Bagga and Dr. Ajay Gupta, Jr. Residents (Dental) in the Lok Nayak Jai

Prakash Narayan Hospital, the Maulana Azad Medical College is practicing discrimination in the matter of pay and emoluments of the applicants and they are entitled to the same pay and emoluments as the two Residents Doctors are getting. They have, therefore, prayed:

the learned quantum of office order to the extent of Rs.1000/- each to the applicants

(a) to quash and set aside office order (Part II)

of the date of 20.9.1987 (Ref. No. 2055) dated 1.10.1987, Office order (Part II)

No. 2240 dated 4.11.1987 and Office order (Part II)

No. 1017 dated 6.4.1988 issued by the respondent

No. 1 to the extent that they provide for

payment of Rs.1000/- p.m. each to the applicants

as fixed pay for working as Junior Residents;

and (b) to direct the respondents to treat the applicants

at par with other Junior Residents of Lok

Nayak Jai Prakash Narayan Hospital for the

purposes of pay and allowances as well, and

to pay to the applicants the difference of

the salary they have already worked as Junior

Residents; and

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the learned quantum of office order to the extent of Rs.1000/- each to the applicants

verbal

(c) to direct the respondents to pay to the applicants the same pay hereinafter, which is being paid to other Junior Residents of Lok Nayak Jai Prakash Narayan Hospital.

Before we advert to the questions raised in the arguments and the replies thereto, it will be necessary to state some undisputed facts.

In the Union Territory of Delhi, there are several hospitals and medical colleges, one of which known as Maulana Azad Medical College (in short 'MAMC') and Associated Hospitals complex consisting of four integral units, viz., the College, Lok Nayak Jai Prakash Narayan Hospital, (in short 'LNJP Hospital'), Gobind Ballabh Pant Hospital (in short, 'GBP Hospital') and Guru Nanak Eye Centre. The well-known Irwin Hospital has been renamed as Lok Nayak Jai Prakash Narayan Hospital. It is one of the biggest hospital in Delhi. The GBP Hospital was added in 1964 to provide training facilities in super specialities. In 1983, a Dental Wing was added to the MAMC. It is also undisputed that the medical course (MBBS) is for a period of 4½ years plus 1 year's internship.

The B.D.S. Course when started was for a period of 4 years only. There was no internship then. In 1985, a provision was made that all those who complete the 4 years term for BDS from 1989 onwards have to do a year's internship before they get the Degree of B.D.S. It is also not in dispute that some Junior Residents (Dental) were appointed by the College to work at a fixed pay of Rs.1000/- per month. All those who had been

appointed as Junior Residents (Dental) were examined and found qualified for the Degree of B.D.S. They were not doing any internship at the time when they were appointed. They were fully qualified Dental Surgeons.

It is also not in dispute that Dr. Vishruti Bagga and Dr. Ajay Gupta were also appointed Junior Residents (Dental) by different orders in the LNJPN Hospital. The former was appointed by order dated 7.5.1987 from 9.2.1987 to 31.12.1987. The order appointing them indicated that 5 persons appointed to the post of Junior Resident (1st Year) in various specialities for the period shown against each name were to be paid Rs.2400/- per month (inclusive of all allowances including NPA). They were also to

be paid C.C.A. admissible under the rules and also D.A. on 90% of the allowances and dues paid out of a sum of Rs. 100/- per month as the remuneration. Dr. Ajay Gupta was similarly appointed by order dated 29.2.1988 on the same term as Junior Resident (1st Year) to whom he was to be given a deduction of 10% of his remuneration from 1.7.1987 to 31.12.1987. The other appointees in the orders dated 7.5.1987 and 4.8.1987 were persons who had qualified and obtained MBBS Degrees and had been appointed as Junior Residents in Medicine, General Surgery, Orthopaedic, Burns & Plastic, and the Obstetrics and Gynaecology Sections. There was

There is also no dispute that 11 applicants in O.A.1163/88 were appointed as Junior Residents with effect from 28.9.1987 to 31.12.1987 vide Office Order (Part I) No.2055 dated 1.10.1987 and applicants Nos.12 and 13 were appointed as Junior Residents vide Office Order No.2240 dated 4.11.1987 in the

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Dental Wing of MAMC. The orders indicated that they were to be paid @ Rs.1000/- per month (fixed) per head. By another Office Order dated 6.4.1988, their term was extended from 1.4.1988 to 30.9.1988.

30.9.1988. No.2117  
In O.A. 645/1989, by an Office Order dated 9.8.1988  
(Annexure X-4), 7 of the applicants No.2, 4, 5, 7, 8, 9 and 10  
were appointed on the recommendations of the selection committee as  
Junior Residents with effect from 8.8.1988 to 7.8.1989 in the  
Dental Wing of the College. They were to be paid Rs.1000/- per  
month (fixed) per head. By another similar Office Order (Annexure  
X-5), applicants Nos. 1, 3, 6 and 11 were appointed from 17.9.1988  
to 16.9.1989 and the last applicant No.13, Shri Mathai Thomas from

to RGP on 1.10.1988 to 30.9.1989. There is also no dispute to the fact that the Government of India, Ministry of Health and Family Welfare on 5.12.1986, issued a Residency scheme, whereby a revision of emoluments of Junior and Senior Residents was declared. The Junior Residents would be paid Rs.2400 in the first year, Rs.2475 in the second year and Rs.2550/- in the third year of their residency respectively.

ly. They were also to get CCA, H.R.A. and D.A. on 90% of the compensation. Earlier they were getting only Rs.1000/- p.m.

The applicants have stated that they were given assurance, at the time of appointment that they would be put at par with other Junior Residents of the LNJPN Hospital and they would get the same emoluments as were being paid to other Junior Residents.

On September 22, 1987 they made a representation in this regard.  
It was forwarded by Dr.D.S.Agarwal, Dean, MAMC, New Delhi to  
the Secretary (Medical), Delhi Administration. It was received



On behalf of the applicants, Shri V.S. Madaan, submitted that the rule of 'equal pay for equal work' has not been applied in the case of the applicants in these two original Applications. The applicants are all qualified Medical Practitioners in Dentistry, they have obtained their B.D.S. Degrees in 1987 and 1988. They have been appointed as Junior Residents (Dental) at a fixed salary of Rs.1000/- per month whereas similarly qualified Dental Surgeons with BDS Degree have been appointed Junior Residents (Dental) in the LNJPN Hospital and Guru Teg Bahadur Hospital at a higher pay of Rs.2400/- plus other allowances per month, when there is no distinction between the type of work the applicants do and those appointed in the LNJPN Hospital and Guru Teg Bahadur Hospital. Their responsibilities are the same. Being Dental Surgeons having BDS Degrees, they are not called upon at any time to look after any other patient in these three Hospitals except the patients who come for oral and dental treatment or surgery. Learned counsel for the applicants contended that it is a well established principle that persons similarly placed and doing similar work should be paid similarly. In the present case, he contended, this had not been done and there was thus a violation of Article 14 of the Constitution. Shri J.S. Bali, learned counsel for the respondents contended that the applicants were not entitled to the same scale as that of other Junior Residents in the Hospitals. They did not perform the same type of work and their responsi-

bilities differed. The pay scale of Rs.2400/- per month was meant exclusively for persons who had been examined and found qualified for the degree of M.B.B.S. and who were undergoing a Post Graduate course in the Medical College. The applicants were not seeking any Post Graduate qualification, for there was no course of M.D.S. in the College and as such, Junior Residents (Dental) were not entitled the same pay scale as that of Junior Residents in the Hospital. In regard to Dr. Vishruti Bagga and Dr. Ajay Gupta, the learned counsel stated that giving them pay scale of Rs.2400/- per month was a mistake and advantage of the same could not be taken by the applicants. Further, the appointing authority for the applicants was the Dean of the MAM College and the Medical Superintendent of the Hospital in the LNJPN. They were separate organisations and their appointing authorities were different, consequently, any pay scale granted by the LNJPN Hospital could not be cited as an act of discrimination by the applicants who were appointed by the Dean of the MAM College. He further contended that the applicants were found to be acting as Interns and their pay scale was Rs.1000/- per month (fixed) in every Medical College and Hospital attached thereto in Delhi. Their nomenclature as Junior Resident could not entitle them to a better status than that of intern. In any event, the applicants had accepted the appointment which carried an emolument of Rs.1000/- only and it was not open to them to question the same. Lastly, it was urged that the Government or the appointing authority is the sole

such a like judge of determining as to what the pay scale would be for a particular post and this could not be questioned by the applicants. In support of his contention, Shri J.S. Bali referred to a decision of the Supreme Court in the case of

MEWA RAM KANOJIA Vs. ALL INDIA INSTITUTE OF MEDICAL SCIENCES & ORS. (AIR 1982(2) S.C. 17). A contention had been raised in the above case that Speech Therapists have been granted higher scale of pay in other Institutions, viz., Rohtak Medical College, National Institute for Hearing Handicapped, Hyderabad, Safdarjang Hospital, and P.G.I. Chandigarh cannot be taken into consideration as the petitioner has failed to place any material showing the duties and functions performed by the Speech Therapists in the aforesaid Institutions or the qualifications prescribed for the same. He also stated this case for the proposition that if the employer is not the same, the principle of equal pay for equal work would not be applicable. The plea of Kanojia was dismissed by the Supreme Court on the ground that the petitioner had not placed requisite material before the Court for application of the principle of 'Equal Pay for Equal Work'. Learned counsel for the respondents had also referred to a decision in the case of UMESH CHANDRA GUPTA AND OTHERS Vs. OIL AND NATURAL GAS COMMISSION AND ORS.

(AIR 1989 SC 29) where the Supreme Court observed: "If the management for good reasons have classified the posts into two categories with different pay-scales, the Courts generally must accept unless it is demonstrated that it is patently erroneous either in law or on fact."

We have heard learned counsel for the parties and considered the case law as well. We may refer to the law of 'Equal Pay for Equal Work'. This principle is not a new one. It has been considered in the case of RANTHIR SINGH vs.

UNION OF INDIA (AIR-1982 SC 879). Chinnappa Reddy, J. observed:

"It is true that the principle of 'equal pay for equal work' is not expressly declared by our Constitution to be a fundamental right. But it certainly is a constitutional goal.

Art.39(d) of the Constitution proclaims 'equal pay for equal work for both men and women' as a Directive Principle of State Policy..... These equality clauses of the Constitution must mean something to every one.

To the vast majority of the people the equality clauses of the Constitution would mean nothing if they are unconcerned with the work they do and the pay they get. To them the equality clauses will have some substance if equal work means equal pay."

The learned Judge, however, observed that a differential treatment in appropriate cases can be justified when there are two grades based on reasonable grounds:

"It is well known that there can be different types of work and different types of treatment in appropriate cases can be justified when there are two grades based on reasonable grounds. The officers of the lower grade, which may be either academic qualifications or experience based on length of service reasonably sustain the classification of the officers into two grades with different reasonable and justifiable scales of pay. The principle of 'equal pay for equal work' would be an abstract doctrine not attracting Art.14 if sought to be applied to them."

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case decided by the Supreme Court of India in 1984 was

MANDHIR SINGH's case, (supra). It followed in RAMCHANDRA VS

UNION OF INDIA (AIR 1984 SC 541), P.SAVITA VS. UNION OF INDIA

(AIR 1985 SC 1124), and SURINDER SINGH VS. ENGINEER-IN-CHIEF,

CP.W.D. (AIR 1986 SC 574). In Surinder Singh's case, daily wage

of workers employed for several years by the CPWD came up for consideration before the Supreme Court. The workers demanded

parity in their wages, salary and allowances with those of

regular and permanent employees of the Department on the basis of performing similar work. A series of cases have been decided

by their Lordships of the Supreme Court and the latest in the

series of the cases is the case of STATE OF U.P. AND OTHERS

VS. J.P. CHAURASIA AND OTHERS (AIR 1989 SC 19) where all

these cases have been taken into consideration.

One of the questions posed by the Supreme Court in the above judgment was

whether there can be two scales of pay in the same cadre of

persons performing the same or similar work or duties. This

passage has also been referred to in the case of TARSEM LAL

GAUTAM AND ANOTHER VS. STATE BANK OF PATTIALA AND OTHERS

(AIR 1989 SC 30).

In the case of J.P. CHAURASIA (supra), their Lordships

were considering the formation of two grades amongst the Bench

Secretaries in the High Court at Allahabad. Under the rules

framed by the Chief Justice of the High Court, Bench Secretaries

Grade I are selected by a Selection Committee. Their selection

is based on merit with due regard to seniority. They are

selected amongst the lot of Bench Secretaries Grade II.

When Bench Secretaries Grade II acquire experience and also

display more merit, they are appointed as Bench Secretaries

of Grade I, but also

display more merit, they are appointed as Bench Secretaries

of Grade I. The rules thus make a proper classification for the

Grade I.

for the purpose of entitlement to higher pay scale. Their Lordships

to justify only observed:

Admittedly "The classification made under the Rules,

therefore, cannot be said to be violative

of the right to have equal pay for equal work."

value for remuneration. In this case, there is no challenge to the

educational and professional qualification and experience of

each of the applicants.

On the other hand, Dr. Vishruti Bagga and Dr. Ajay Gupta on one hand with that of

the applicants. There is nothing concrete to show that both

the applicants. There is nothing concrete to show that both

the Jr. Residents in LNUPN Hospital were doing any other work

or any further work or any different work than those performed

by the applicants in the MAM College. Both had done four years

Course of BDS, were examined and conferred degree of BDS.

They were all working as Junior Residents (Dental Wing).

We, therefore, do not find any reasonable basis of classification

for the same.

Admittedly, Dr. Vishruti Bagga and Dr. Ajay Gupta on

one hand and the applicants on the other. They are in the

same cadre doing the same work and had similar responsibilities.

yet they were being paid differently.

We may record here that the respondents effort was

to show that the scale of Rs.2400/- for Junior Residents in

the Medical Colleges and hospitals connected therewith were

not of medical nature and it was only

medical work which was not so similar.

being paid to doctors who have MBBS degrees and who perform a variety of work in the hospital as Junior Residents. For our purpose it is not necessary to go into the question what justified the payment of Rs.2400, Rs.2475 and Rs.2550 to Junior Residents having MBBS qualification. We are in

the present case concerned with a simple matter, viz. that of the two BDS qualified doctors who were appointed as Junior Residents and yet paid @ Rs.2400/- P.M. (inclusive of all allowances including NPA) plus CCA admissible under the rules of the hospital and also DA on 90% of the remuneration, whereas their counterparts who were similarly qualified, doing similar work were being paid Rs.1000/- per month (fixed). We think, that the present case is one of those cases where the principle of 'equal pay for equal work' applies with full force. We do not find any reasonable ground to disallow the application of the rule. As a matter of fact, it is a glaring case of discrimination.

Learned counsel for the respondents has stated that he appears for respondent No.1, viz., the Dean, MAMC, and not for any of the other respondents and he is not aware of the circumstances under which the Medical Superintendent of the LNJPN Hospital allowed a different and higher scale of pay to Dr. Bagga and Dr. Gupta, who were appointed as Junior Residents in that Hospital. He has, however, not denied that the work and responsibilities of the applicants are in any way different than those of Dr. Bagga and Dr. Gupta.

We may also refer to the contention raised by the learned counsel for the respondents that the MAM College,

GBP Hospital and LNJPN Hospital were all separate and distinct organisations and one had nothing to do with the other. This contention has to be rejected as the 31st College Report 1988 published by the Maulana Azad Medical College and Associated Hospitals in the opening lines of the Annual Report recorded:

"Maulana Azad Medical College and Associated Hospitals complex consisting of four integral units, viz., the College, Lok Nayak Jaya Prakash Narayan Hospital (Irwin Hospital), Gobind Ballabh Pant Hospital and Guru Nanak Eye Centre was funded in 1958".

It is undisputed that the MAMC and these hospitals are run by the Delhi Administration. The appointing authorities may be

different but they are all run by the Delhi Administration, and as such, it cannot be urged that the employer is not the same. We may refer to a letter dated 9th September, 1987 filed along with the counter filed by Dr.D.S. Agarwal, Dean of MAMC in OA 1163/1988, which shows that 20 posts of Junior Residents in MAMC were sanctioned by the Delhi Administration. We are, therefore, not impressed by this line of argument. The contention

is rejected. We may also refer to another argument raised on behalf of the respondents that the applicants' appointment and work was

akin to interns as in the MBBS course. Dr. D.S. Agarwal's

reply in OA 1163/1988 says "MAMC decided to create this post in order to give full practical training to the B.D.S. graduates, on the analogy of M.B.B.S. students who after passing M.B.B.S. are

appointed compulsorily as Interns for one year under the instructions of the Medical Council of India." This contention has also no substance. The M.B.B.S. course is for a duration of 4½ years followed by a year of internship after which the degree of MBBS is granted to those who qualify the written and practical examination. The course for B.D.S. on the other hand was for a duration of 4 years only upto 1988 and there was also no scheme for having interns in the case of Dental Surgeons who passed the BDS examination till 1988. The internship scheme became applicable in terms of Dental Council of India's letter No.DE-1-84/5941 dated 15th March, 1985, specifying that the provisions of undergoing internship should be applicable to Final Year BDS students who will qualify in 1989 and onwards. The applicants received BDS Degree in 1987 and 1988 became fully qualified Dental Surgeons and to treat them as interns would not be correct. The applicants were not paid any stipend, but regular salary. The Dental Council of India have made internship for a year compulsory to obtain the Degree of B.D.S. That is not applicable to the present

Junior Residents who are already entitled to practice dentistry. They rightly alleges that they do not require any internship, for they have got their degree of B.D.S. They are doing the work of Junior Residents for it is a pre-requisite condition to obtain Government service or to go in for a Post Graduate qualification. Consequently, the argument that the applicants were interns or doing something akin to internship is wholly untenable. We reject the same.

If the grant of a higher scale to Dr. Vishruti Bagga and Dr. Ajay Gupta was a mistake, then we have seen no evidence of any effort made by the respondents to rectify the mistake.

Once the administration had granted a higher scale to similarly qualified persons with similar experience and performing the same type of work, there is no justification to deny the same scale of pay for the applicants who were doing exactly the same nature of work and had similar qualifications and responsibilities.

Having considered the matter and for the reasons indicated above, we are of the view that the applicants have been able to make out a case of the applicability of principle of 'equal pay for equal work' and as such, we allow both the Applications and grant the reliefs prayed for by quashing Office Order No.2055 dated 1.10.1987, Office Order No.2240 dated 4.11.1987 (OA 1163/88) and Office Order No.2117 dated 9.8.1988 (Annexure X-4) and (Annexure X-5) (OA 645/1989) issued by respondent No.1 to the extent that they provide for payment of Rs.1000/- p.m. each to the applicants as fixed pay for working as Junior Residents. We further direct that all the applicants are entitled to receive and be paid the same scale of pay plus other allowances as have been granted in the case of Dr. Vishruti Bagga and Dr. Ajay Gupta employed as Junior Residents in the Lok Nayak Jai Prakash Narayan Hospital

from the respective dates of their original appointment.

In the circumstances of the case, we direct the parties to bear their own costs.

28.9.89

(B.C. Mathur)  
Vice-Chairman  
28.9.1989.

(Amitav Banerji)  
Chairman  
28.9.1989.

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