

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

D.A. 141/88

DATE OF DECISION: 18.9.1992

Pahlad Sharma

... Applicant

vs.

Deputy Director General of Meteorology
(Instrument & Production), New Delhi
and Others.

... Respondents

For the Applicant

.. Shri S.N.Gupta,
Advocate

For the Respondents

..

C O R A M

THE HON'BLE MR.S.P.MUKERJI, VICE CHAIRMAN

THE HON'BLE MR.T.S.OBEROI, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment?
2. To be referred to the Reporters or not? *My*

JUDGMENT

(Hon'ble Mr.S.P.Mukerji, Vice Chairman)

In this application dated 27.11.87 the applicant who has been working as a Class IV Book-binder in the office of the Deputy Director General of Meteorology has prayed that the respondents be directed to pay the applicant salary as a Book-binder in Class III grade of Central Services along with arrears of pay and allowances. His plea is that the post of Book-binder is a technical post which in the various Organisations of the Government of India carried the Class-III grades of either Rs.260-350 or Rs.320-400 before revision whereas he was being paid the Class-IV scale of Rs.210-270 with effect from 1.1.73 and the Class IV grade of Rs.800-1150 with effect from 1.1.86.

He has contended that on 1.10.1980(Annexure-C) he was asked to give his willingness to accept to retire at the age of 58 years in case the post is upgraded to the Class-III level of Rs.260-350 and he gave his willingness on 1.10.80 itself vide Annexure-D. In spite of this, no decision has been taken for upgrading the post.

2. In the counter affidavit the respondents have stated that the applicant has been working as Book-binder in the Meteorological Department in Class-IV grade since 13.12.1965 as a Physically handicapped person being colour blind. The post carried the Class-IV scale of Rs.80-110 which was revised to Rs.210-270 with effect from 1.1.73. They have stated that the proposal of the Staff Side for revision of the pay scale of Book-binder from Rs.210-270 to Rs.260-400 was rejected by the Third Pay Commission on the ground that the post of Book-binder in the Meteorological Department was not a workshop post. On the rejection, the Department re-examined the proposal and thought that in parity with the pay scale of Book-binders in other Departments, like the Government Press, Department of Personnel, Department of Family Planning etc., the post in the Meteorological Department should also carry a pay scale of Rs.260-350 and the applicant's willingness was obtained to accept the higher grade in case the same is sanctioned with the consequence of retiring at the age of 58 years instead of 60. No verbal or written assurance had been given to the applicant that the post will be upgraded. He was informed that the

question of upgradation was under consideration.

The pay scale was further revised to Rs.800-1150 on the recommendations of the Fourth Pay Commission in the Class-IV grade , even though the applicant had put forward his justification in his memorandum to that Commission. The applicant had submitted two separate memorandum to the Fourth Pay Commission for upgrading the post of Book Binder, but the Pay Commission still recommended the Class-IV grade.

3. Vide the order dated 23.1.87 at Annexure-A the applicant was informed on his application dated 9.12.86 that his case had been referred to the Govt. and their reply ^{was} awaited and that further communication will follow on receipt of Govt. decision.

4. In the rejoinder, the applicant has stated that the Fourth Pay Commission never refused upgradation of the post of Book-binder ~~as~~ a Class-III post in all the Ministries and other Departments of the Central Government, his post also should be upgraded. He said that the Book-binder stationed at Pune under the respondents was given a Grade-C pay scale and that post is still lying vacant. He has mentioned that he is a Diploma holder and being handicapped, he is entitled to the upgradation. The respondents have been assuring the applicant that the question of upgradation of his post has been under consideration, but no decision has so far been taken.

5. We have heard the arguments of the learned counsel for both the parties and gone through the documents

carefully. In State of U.P. vs. J.P. Chaurasia & Others, AIR 1989 SC 19, the Hon'ble Supreme Court observed as follows:-

"The equation of posts or equation of pay must be left to the Executive Government. It must be determined by expert bodies like Pay Commission. They would be the best judge to evaluate the nature of duties and responsibilities of posts. If there is any such determination by a Commission or Committee, the Court should normally accept it. The Court should not try to tinker with such equivalence unless it is shown that it was made with extraneous consideration."

Similar views were expressed by the same Court in Umesh Chandra Gupta and others vs. Oil and Natural Gas Commission and others, AIR 1989 SC 29. Accordingly, it may not be proper for this Tribunal to give any specific direction to the respondents for upgradation of the post of Book-binder held by the applicant. The records, however, show that the second respondent was satisfied that in conformity with the pay scales available to Book-binders in other Departments and similarity of duties and skill of Book-binders as such, there is a case of upgrading the post of Book-binder from Class-IV to Class III scales of Rs.260-350. By the Office Memorandum dated 1.10.1980 at Annexure-C, the respondents called upon the applicant to give his willingness to retire at the age of 58 years if the proposed upgradation materialised. The applicant gave his willingness at Annexure -D on the same day. The applicant has been kept in a state of suspense and expectation about the upgradation. By the communication

dated 23.1.87 he was told by his Department that the matter ^{was} ~~is~~ under consideration of the Government and "further communication will follow on receipt of Govt. decision".

6. The applicant is a low-paid employee and is a handicapped person. He feels aggrieved that his post of Book-binder has been singled out to be in Class-IV scale, even though his Department feels that it should be in Class-III scale. Be that as it may, the Government is duty-bound to consider his case, as recommended by the ^{themselves} respondents and take a decision which is just and equitable.

7. In the conspectus of facts and circumstances we allow this application to the extent of directing respondent No.3 to consider the applicant's representation dated 6th December, 1986 at Annexure-B, in accordance with law and the recommendations made by respondent No.2, take a decision thereon and communicate the same to the applicant within a period of three months from the date of communication of this order. There will be no order as to costs.

Seor
(T.S. OBEROI)
JUDICIAL MEMBER

18.7.92
(S.P. MUKERJI)
VICE CHAIRMAN

n.i.j