

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

REGN.NO. OA 2073/88

Date of decision:

Dr.S.C.Mehta

..... Applicant

Vs.

Union of India & others Respondents

CORAM: HON'BLE SHRI D.K.CHAKRAVORTY, MEMBER(A)

For the Applicant Shri K.L.Bhatia,
Counsel.

For the Respondents Shri P.P.Khurana,
Counsel.

(Judgement of the Bench delivered by Hon'ble
Shri D.K.Chakravorty, Member(A))

The applicant, Dr.S.C.Mehta, who is a Demonstrator in the department of Pharmacology, Lady Hardinge Medical College, New Delhi, has filed this application under Section 19 of the Administrative Tribunals Act, 1985 praying for the following reliefs:-

(i) that the respondents may be directed to remove / ^{the} disparity of pay scale between the Medical and Non-Medical Demonstrators and implement the recommendations of the 4th Pay Commission as in Maulana Azad Medical College, New Delhi.

(ii) that as in Maulana Azad Medical College, New Delhi, the applicant may be given pay scale of Rs.2000-4000 from 1.1.1986 with consequential benefits and arrears.

(iii). that the Hon'ble Tribunal may give any other relief as found fit in the interest of justice with costs of the proceedings.

2. The brief facts of the case, as given by the applicant, are as below:

The applicant is a permanent Government employee/has been working as Demonstrator in the department of Pharmacology in the Lady Hardinge Medical College and Associated Hospital under the Directorate General of Health Service of the Ministry of Health and Family Welfare since 12.6.76. Initially, the applicant was appointed to the post of Senior Resident in the scale of Rs.650-710 on ad hoc basis. Later on he was selected and appointed on regular basis in the same capacity under Respondent No.3's Memorandum dated 9.9.1977. In June 1978, the applicant was transferred to the post of Demonstrator on the same pay but in the scale of Rs.550-960 which carries higher maximum of the scale. The posts of Demonstrators in the departments of Biochemistry, Physiology, Pharmacology etc. are held by medical as well as non-medical persons. In these departments these posts are also known as Senior Residents and the duties performed by them are the same as those of Demonstrators.

According to the recommendations of the Fourth Pay Commission in Chapter 10 para 237, the pay scales fixed for the posts in various medical and teaching institutions should be the same both for medical and non-medical persons. An extract of the recommendations of the Fourth Pay Commission in this regard is reproduced below:-

" The non medical teaching staff of the All India Institute of Hygiene and Public Health

6

& Public Health, Jawaharlal Institute of Postgraduate Medical Education & Research and Lady Hardinge Medical College & Hospital have represented that there is difference in the pay scales of non-medical and medical teaching staff. They have suggested that pay scales fixed for the posts should be the same both for the medical and non-medical teachers. There appears to be considerable force in the contention. The role of the two categories of teachers is not only comparable but is also complementary and the one cannot be said to be less important than the other. We therefore, recommend that the pay scales of non-medical teaching staff of the medical teaching institutions under the Central Govt. should be the same as for the medical teaching staff."

While the said recommendations of the Fourth Pay Commission have been accepted and implemented by the Government yet the pay scale for the post of Demonstrator (non-Medical) has been fixed as Rs. 1640 to Rs. 2900 as against Rs. 2000-4000 fixed for the Demonstrators on medical side. The respondents have thus maintained large disparity between pay scale of the Medical Demonstrators and non-Medical Demonstrators who are performing the same duties. This is arbitrary and against the recommendations of the Fourth Pay Commission which have already been accepted and implemented by the Government of India.

The applicant submitted a representation dated 20.4.1987 to respondent No. 1 requesting that the anomaly in the pay scale of Demonstrators (Medical) as well as non-Medical may be removed and the applicant may be given the scale of pay equivalent to those of his counter-parts working in the Medical College. The

said representation was forwarded with the recommendation of the Head of the Department of Pharmacology. Despite a reminder dated 23.2.88, no reply has been received from the respondents in this regard so far.

The applicant has alleged that in the Maulana Azad Medical College, New Delhi which is also a Government institution, the counter-parts of the applicant, namely Demonstrator(Medical) are getting the pay scale of Rs.2200-4000 whereas the applicant has been discriminated by fixation of his pay scale as Rs.1640-2900.

The applicant has contended that the denial of the pay scale equivalent to his counter-parts on medical side, as recommended by the Fourth Pay Commission, is arbitrary and discriminatory and thus violative of Articles 14 and 16 of the Constitution. Further, this is in violation of the principles of equal pay for equal work enshrined in Article 39(d) of the Constitution.

In view of the facts and grounds mentioned supra, the applicant has prayed for removal of disparity in the pay scales between the Medical and non-Medical Demonstrators and the implementation of the recommendations of the Fourth Pay Commission.

The applicant prays that he may be given the pay scale of Rs.2000-4000 with effect from 1.1.86 with all the consequential benefits and arrears.

3. In the counter submitted on behalf of the respondents, it has been admitted that the service conditions of the officers of the Lady Hardinge Medical College are governed by the Fundamental and Supplementary Rules, CHS rules and instructions and direction issued by the Ministry of Health and Family Welfare from time to time. It has been mentioned that the posts of Senior Residents were redesignated as Senior Demonstrators in certain pre and para clinical departments of Lady Hardinge Medical College. The pay scales of the posts have been determined with reference to the nature of duties and qualifications of the incumbents of the posts. The incumbents with the medical qualifications have to be given higher scale as compared to those with non-medical qualifications on account of their higher qualifications. The contentions of the applicant that his counter-parts working in the Maulana Azad Medical College are getting higher scale of pay has been denied in the counter-affidavit. However, it has been clearly stated in the counter that:-

D/ " the issue of the revision of the pay scales of demonstrators with non-medical qualifications at par with the demonstrators with medical qualification is under consideration by the Govt."

In reply to the contention of the applicant that he has availed of all the remedies available to him under the relevant service rules etc., it has been specifically mentioned in the counter-affidavit that "As the matter is still ^{under} consideration of the Government, the application is pre-mature".

4. Heard the learned counsel of the applicant and the respondents. During the course of the arguments the learned counsel of both sides agreed that since Government has not yet taken any final decision on the issue of parity of the pay scales of the Demonstrators on the Medical and the Non-Medical side and the representation submitted by the applicant remains undisposed of the matter may, at this stage, be remanded to the respondents for disposal of the appeal.

5. In the circumstances of the case, the respondents are directed to dispose of the representation of the applicant dated 20.4.1987 addressed to the Secretary Government of India, Ministry of Health & Family Welfare by a speaking order within a period of three months from the date of receipt of a copy of this order. There will be no order as to costs.

6. However, if the applicant feels aggrieved on the decision to be taken on his representation, he will be at liberty to move the Tribunal in accordance with law by filing a fresh application, if so advised.

7. The Application stands disposed of as above with no order as to costs.


(D.K.CHAKRAVORTY)
MEMBER
22.12.1989