

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

(13)

O.A. No. 325/1988  
~~Ex No.~~

199

DATE OF DECISION 30.7.1991.

<u>Shri T.R. Seth &amp; Others</u>	<u>Petitioner(s) Applicants</u>
<u>Shri B.S. Charva</u>	<u>Advocate for the Petitioner(s) Applicants</u>
Versus	
<u>Director of Health &amp; Family Welfare AND Others.</u>	<u>Respondents</u>
<u>None.</u>	<u>Advocate for the Respondent(s)</u>

## CORAM

The Hon'ble Mr. JUSTICE U.C. SRIVASTAVA, VICE CHAIRMAN

The Hon'ble Mr. I.P. GUPTA, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

JUDGEMENT

( Delivered by Hon'ble Mr. Justice  
U.C. Srivastava, Vice Chairman )

The applicants, four in number, are Health Education Extension Officer/Social Science Instructor in the Health and Family Welfare Training Centre and are similarly placed and claiming some relief and that is why their prayer for joint application is being allowed by us. They prayed that although they are in service for more than 20 years, having entered the service between 1967 to 1971, they have not been placed in the regular cadre, although they are entitled to parity in the matter of fixation of pay scales in the grade of Rs.650-1200 (pre-revised) in the

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same manner as has been done in the case of Superintendent of Homes in Directorate of Social Welfare vide letters dated 23.1.1978 and 2.2.1978.

2. The post of Health Education Extension Officer/ Social Science Instructor was earlier in the scale of Rs.325-575. It was raised as a result of the Third Pay Commission's report to Rs.550-900 and 15 posts were clubbed by Pay Commission including that of Superintendent of Homes, Health Education Extension Officer for being placed in the grade of Rs.325-575 and all these posts were to be treated alike for the purposes of pay scales. Despite this Pay Commission's report, the Delhi Administration took up the post of Superintendent of Homes for upgradation <sup>and</sup> ~~of~~ <sub>it</sub> revision in the scale of Rs.650-1200 vide its decision dated 2.2.1978 which was given retrospective effect w.e.f.1.1.1973. The Fourth Pay Commission further revised the pay scale of Superintendent, Homes to Rs.2,000-3,500 w.e.f.1.1.1986, but nothing was done so far as the services to which the applicants belong. The applicants made many representations in this behalf. Recommendations were made by the Director and the Principal, but to no effect. Even though they stated in the recommendations that their grievances are quite genuine. The respondents in the reply have pleaded that on the representation of the applicants for the revision of the pay scales of H.E.E.O./ S.S.I. on the basis of revision of pay scales done by the Department of Social Welfare, the matter was further examined and the opinion was that the posts of H.E.E.O./S.S.I. were not quite identical to the post of Superintendent of Homes for Beggars. This was done contrary to the fact that the Third Pay Commission had earlier moved them in the same category for the purposes of pay scales. According to the respondents, while the representations were under consideration, Fourth Pay Commission was set up and it was not considered advisable


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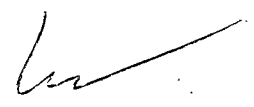
to process (EMPHASIS APPLIED) the proposal for revision of pay scales of H.E.E.O./S.S.I. in isolation at that stage. Now representations for declaring the post of H.E.E.O./S.S.I. as the feeder post for promotion to Delhi, Andman Nicobar island Civil Services were rejected on 4.8.1979 and the matter regarding provision of promotional avenues for H.E.E.O./S.S.I. of Directorate of Family Welfare was referred to U.P.S.C. in the year 1984. The UPSC asked for further particulars and the matter is still pending <sup>for</sup> ~~under~~ <sub>it</sub> consideration. It has been further stated that the matter regarding upward revision of the pay scale is under consideration of this Administration.

3. The service is a matter of status and the petitioners have been pressing for removal <sup>of</sup> ~~for~~ <sub>it</sub> anomaly for the last so many years and they are still being treated as not being included in the cadre and treated as any cadre employees in the Welfare state and too in the Social Welfare Department. It is strange that the matter has been pending for the last so many years and yet the Government has not been able to take a decision for the last several years. If a person in service obviously does not get the promotional avenue and initiative, he will be dumb and will be of no use in service. Obviously, promotional avenues which have now been provided to various categories, should have also been provided for the applicants who worked in the Social Welfare and it is strange that the Government has not taken any step in this behalf. In this case, reference may be made to the observation made by the Hon'ble Supreme Court which has <sup>now</sup> ~~not~~ <sub>it</sub> been followed by the High Courts and the Administrative Tribunals regarding promotional avenues. In Raghunath Prasad Singh Vs. Secretary, Home (Police) Department, Government of Bihar, reported in AIR 1988 S.C. 1033, it was observed, "Reasonable promotional opportunities should be available in every wing of public service. That generates

efficiency in service and fosters the appropriate attitude to grow for achieving excellency in service. In the absence of promotional prospects, the service is bound to degenerate and stagnation kills the desire to serve properly. " The Government is still sitting idle for the last 7 years and as such we direct that this matter of pay scale and promotional avenues for the applicants be decided in the light of the fact that it is a welfare state and the applicants are working in Welfare Department, taking into consideration all relevant factors. There seems no reason as to why the applicants will not now be included in a particular cadre when the Third Pay Commission clubbed them with the Superintendent of Homes. There seems no reason again why this clubbing was not done in the Fourth Pay Commission report and the reason appears to be that the case was not put forward before the Fourth Pay Commission as is evident from the written reply of the respondents extracted above and the presentations made by them still await a decision and it is not known whether it will be decided so long as they <sup>are in</sup> service or not. A duty has been enjoined upon the Administration to decide this matter and as such we are directing them to perform the duty. They are directed to dispose of the representation of the applicants regarding pay scales and cadre within four months.

With these directions, this application is disposed of finally and in case the decision is given in favour of the applicants, the authorities <sup>will</sup> consider the date from which the decision is to be implemented.

  
(I.P. GUPTA)  
MEMBER (A)  
30.7.91.

  
(U.C. SRIVASTAVA)  
VICE CHAIRMAN  
30.7.91.

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