

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

N E W D E L H I

O.A. No. 1212/88
T.A. No.

199

DATE OF DECISION 12.12.1990

<u>Smt. Tripta Sethi</u>	Petitioner
<u>Shri G.D. Bhandari</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India & Others</u>	Respondent
<u>Shri M.M. Sudan</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Justice Amitav Banerji, Chairman

The Hon'ble Mr. I.K. Rasgotra, Member (A)

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 ?


 (AMITAV BANERJI)
 CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO. 1212/88

DATE OF DECISION: 12.12.1990

SMT. TRIPTA SETHI,

...APPLICANT

VERSUS

UNION OF INDIA & OTHERS

...RESPONDENTS

CORAM:

HON'BLE MR. JUSTICE AMITAV BANERJI, CHAIRMAN
HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

ADVOCATES:

FOR THE APPLICANT SHRI G.D. BHANDARI
FOR THE RESPONDENTS SHRI M.M. SUDAN

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE

MR. I.K. RASGOTRA, MEMBER (A))

Smt. Tripta Sethi has filed this application under Section 19 of the Administrative Tribunals Act, 1985, aggrieved by the rejection of her representation for revision/upgradation of the post of Assistant Supervisor, Work Centre for Women (ASWCW) from Rs.550-900 to Rs.650-1200 since 5.6.1978. She is presently holding the post of Assistant Superintendent/Superintendent. These posts come under the Directorate of Social Welfare who is running different Homes/Centres for the Social Welfare and uplift of the women. There are seven such Work Centres operating under the Delhi Administration. All the Work Centres for Women are managed by seven Superintendents and one Assistant Supervisor and all

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the 8 posts were in the pay scale of Rs.550-900. The applicant contends that the conditions of appointment, Recruitment Rules, job qualifications, duties functions and responsibilities are all alike for all the eight posts as would be seen from Annexure-A-1.

The post of ASWCW held by the applicant was created in 1973 and is placed in Group 'B' Gazetted and is regulated by the same Recruitment Rules and conditions of service as the other seven posts. However, the 7 out of 8 posts (excluding one occupied by the applicant) were allotted revised pay scales from Rs.550-900 to Rs.650-1200. The 8th post of ASWCW was however left out from this upgradation without any reasons vide Department of Social Welfare, Respondent No.3 order No.4/4/76-SSB dated 23.1.1978. When the applicant came to know of the discriminatory treatment meted to her from 9.8.1978 when the seven posts were upgraded, she started making representations to seek redressal of her grievance right upto 1987-1988, invoking the principle of 'equal pay for equal work' and equity. It was on 20.3.1982 that the respondents advised her that the matter was under consideration of the Government of India. This position was reaffirmed by the respondents on 11.6.1984 (Annexure A-6). Even Delhi Administration felt that injustice had been done to the applicant and therefore vide their letter dated 21.1.1985 the administration made recommendation to the Ministry of Social Welfare, Government of India for upgrading the post of the applicant. After examination of the case, the Ministry of Social Welfare decided that since the Fourth Central Pay Commission has already been set up and in the meantime no pay scales are to be revised, Delhi Administration should take up

the matter on top priority with the Fourth Central Pay Commission vide D.O. letter No.4-2/80-VC Vol.II dated 15.4.1986 (Annexure -A-8). Consequently, the case was submitted to the Fourth Central Pay Commission by the finance department of Delhi Administration on 17.4.1986 (Annexure-A-9) for their consideration. The Fourth Central Pay Commission accepted the case of the applicant and recommended the revised scale of pay of Rs.2000-3500 for the post of ASWCW which is identical with that of the revised scale allotted for the other 7 posts of the Directorate of the Social Welfare, Delhi Administration. The applicant was thus provided relief claimed w.e.f. 1.1.1986. She is now seeking relief for the period 5.6.1978 to 31.12.1985 when she was kept in the pay scale of Rs.550-900 unlike seven other colleagues who were placed in the grade of Rs.650-1200.. The applicant's representation (Annexure-A-11) has been rejected by the Government of India, Department of Social Welfare vide their letter dated 18.4.1988 (Annexure-A-13). The said letter is reproduced below:-

"I am directed to refer to your representation dated 16.7.1987 on the above cited subject and to say that your proposal has been considered by the Government of India. It is to inform you that Government of India regrets its inability to agree to the proposal."

The above order of the Government of India does not deal with the merits of the case apparently in view of the fact that the grievance of the applicant has been redressed w.e.f. 1.1.1986.

(Signature)

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The applicant was appointed on adhoc basis to the post of Child Development Project Officer w.e.f. 4.10.1982 and was transferred to the post of Superintendent Village & Cottage Home, III, Maharani Bagh, under the Directorate of Social Welfare in identical scale of pay viz. Rs.2000-3500, where she is still working. Her limited grievance, therefore, now is that she should be compensated by revising her scale of pay from Rs.550-900 to Rs.650-1200 for the period w.e.f. 5.6.1978 to 4.10.1982, when she was promoted on adhoc basis to an equivalent pay scale to Rs.650-1200.

2. The respondents in their written statement have not disputed the facts. They have, however, clarified that the post of Assistant Supervisor was created in 1973 whereas the other seven posts were created prior to this post. The only reason given for not including the 8th post for upgradation in paragraph 6.6 of the counter affidavit is that the 8th post was created later in January, 1973. Later on, however, the 8th post was clubbed with the seven posts in further correspondence with the competent authority. The respondents have, therefore, averred that they had not left out the post occupied by the applicant arbitrarily. The respondents have also not disputed that the worth of the charge of the eighth post the applicant is equivalent to the seven other posts, created earlier.

The correspondence between the Delhi Administration and the Central Government i.e. Ministry of Social Welfare also substantiates the fact that there is no dispute that all the 8 posts initially carried the same scale of pay viz. Rs.500-900 and all but one were upgraded to the scale of pay of Rs.650-1200. The only



reason for excluding the post last created was that the 7 other posts were in existence prior to the creation of the 8th post in January, 1973.

Shri M.M. Sudan, the learned counsel for the respondents drew our attention to Delhi Administration's letter dated 22.2.1988 (Annexure-A-14) recommending to the Central Government that the post of Assistant Supervisor should be upgraded from 5th June, 1978 as the same had already been clubbed along with other 7 posts of Superintendents whose scales were revised in 1978.

However, instead of taking a decision on the specific recommendation made by Delhi Administration, the issue was mixed up with the proceedings of the Fourth Central Pay commission which was appointed on 28.2.1983. First the Fourth Central Pay Commission was not set up for evaluating the worth of charge of a single post and allotting the scale of pay to a single post equivalent to the other posts which carried the same duties and responsibilities. The Fourth Central Pay Commission was set up to examine the personal structure of emoluments and conditions of service including the death-cum-retirement-gratuity available to the Central Government employees, keeping in view the change in condidions which had taken place since the report of the Third Pay Commission in 1973 and other relevant socio-economic factors. Secondly, the case of the applicant was acknowledged to be under consideration as early as 1982 vide Delhi Administration's letter of 20.3.1982 (Annexure-A5). It thus seems to us that there was no occasion for referring a individual case to the Fourth Central Pay Commission. Be that as it may, we do not find any justification for denying the revised scale

of pay of Rs.650-1200 to the applicant for the period 5.6.1978 until 4.10.1982 when she was appointed on adhoc basis to another post in the pay scale of Rs.650-1200.

Accordingly, we order and direct that the respondent shall pay to the applicant the difference in pay and allowances actually drawn in the scale of pay of Rs.550-900 and pay and allowances in the scale of pay of Rs.650-1200 as directed herein. In the normal circumstances, we would not have considered if necessary to go beyond this direction to the respondents but having regard to the fact that the applicant has ^{seen} driven to litigation without any justification, we further direct that the arrears as above shall be paid to her along with interest at 10% per annum from 4.10.1982 till the date of actual payment. The above payment shall be made to the applicant within four weeks from the date of communication of this order.

There will be no order as to costs.

Abul
(I.K. RASGOTRA)
MEMBER(A) 12/12/90

Ab
(AMITAV BANERJI)
CHAIRMAN