

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 954
T.A. No.

1986.

DATE OF DECISION 31.10.80

Shri B.K. Jain , Petitioner

Shri R.Venkatramani, Advocate for the Petitioner(s)

Versus

Union of India Respondent

Shri M.M. Sudan, Advocate for the Respondent(s)


CORAM :


The Hon'ble Mr. P.C. Jain, Member (Administrative)

The Hon'ble Mr. J.P. Sharma, Member (Judicial)

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? ✓

MGIPRRND-12 CAT/86-3-12-86-15,000


(J.P. Sharma)
Member (Judicial)


(P.C. Jain)
Member (Admn.)

(7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No.954/86

DATE OF DECISION:

31.10.90

SHRI B.K. JAIN

...APPLICANT

VERSUS

UNION OF INDIA

...RESPONDENTS

FOR THE APPLICANT

SHRI R.VENKATRAMANI, ADVOCATE

FOR THE RESPONDENTS

SHRI M.M. SUDAN, ADVOCATE

CORAM:

HON'BLE SHRI P.C. JAIN, MEMBER (ADMINISTRATIVE)

HON'BLE SHRI J.P. SHARMA, MEMBER (JUDICIAL)

J U D G E M E N T

(DELIVERED BY HON'BLE SHRI J.P. SHARMA)

The applicant, Assistant Professor of Statistics in Maulana Azad Medical College (MAMC), New Delhi filed the application under Section 19 of the Administrative Tribunals Act, 1985 against the order dated 22nd July, 1986 issued by respondent No.3, Dean, M.A.M.C., communicating to the applicant the upward revision of the pay scale for the post of Assistant Professor of Statistics in the said College from existing scale of Rs.700-1300 to Rs.1100-1600, with effect from 22.11.1985 based on the letter issued by the Govt. of India, Ministry of Health and Family Welfare dated 22.11.1985.

2. The applicant claimed the relief that the order of Ministry of Health and Family Welfare dt. 22.11.1985 be quashed by which the scale of pay of Assistant Professor of Statistics was upgraded from the existing scale of Rs.700-1300 to Rs.1100-1600 a direction be issued to the respondents to revise and refix the applicant's scale of pay as Rs.1200-

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1900 at par with the post of Reader in Bio-Statistics in the University College of Medical Sciences, (U.C.M.C.) New Delhi or alternatively to refix the pay in the scale of Rs.1100-1600. A further direction has been sought against the respondents to pay the arrears of the scale of pay of Rs.1200-1900 or alternatively Rs.1100-1600 from the date of appointment of the applicant.

3. The facts are that the applicant in December, 1973 was appointed to the post of Assistant Professor of Statistics in M.A.M.C. in the scale of Rs.570-950. On the recommendations of the Third Pay Commission the Ministry of Finance revised the scale of pay from Rs.570-950 to Rs.700-1300 by amending the Central Civil Services (Revised pay), Rules, 1973. The grievance of the applicant has been that he ought to have been put in the scale of Rs.1100-1600 as was done in the case of the category of Assistant Professors who belonged to the non-medical teaching class. The scale of pay of Rs.700-1300 pertained to the grade of Lecturer.

4. The applicant on 11.8.1975 made the first representation to respondent No.2 but to no effect. The applicant made repeated representations. The last representation was made in 1980 which was forwarded to Delhi Administration (Respondent No.2) by the Secretary, Ministry of Health, Union of India (Respondent No.1) after having the recommendations of the respondent No.3, the M.A.M.C., but after collecting necessary data, the Ministry of Health & Family Welfare by the order dated 22.11.1985 upgraded from the date the scale of Assistant Professor of Statistics in the M.A.M. College, New Delhi to Rs.1100-1600 as personal to the applicant.

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5. The respondents contested the application and filed the reply stating therein that since the Third Pay Commission had recommended Junior Class I Scale only for the post of Assistant Professor of Statistics so this post qualified for the revised pay scale of Rs.700-1300 only. In view of this fact it was not possible to agree to revise the pay scale of the post of Assistant Professor of Statistics to Rs.1100-1600. It is further contended that the scale of the applicant's post was revised from Rs.700-1300 to Rs.1100-1600 with effect from 22.11.85 and the pay of the applicant was fixed at Rs.1300. It is further contended that the applicant is not entitled to the relief claimed in the application.

6. We have heard the learned counsel of the parties at length. The contention of the learned counsel for the applicant is that the grant of the scale with effect from the date of the issue of the order, that is, 22.11.85 as personal to the incumbent is arbitrary, unreasonable, unfair and violative of the applicant's fundamental rules under Article 14 and 16 of the Constitution. The learned counsel further argued that there is violation of the principle of 'equal pay for equal work' and which principle is now well settled by the large number of decision of the Supreme Court and High Courts which are squarely applicable to the instant case and the applicant is entitled to be treated at par with the Reader in Bio-statistics in M.A.M.C. University of Delhi.

7. The learned counsel for the applicant pointed out that the scale of pay for the post of Assistant Professor/Reader in Bio-statistics in the University

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University College has been revised from Rs.570-950 to Rs.1100-1600, while in the case of the applicant it has not been done so and the revised scale is Rs.700-1300. The applicant filed Annexure VII to the OA which is a letter dated 26th August, 1977 addressed to the Deputy Secretary (Medical), Delhi Administration by Dean, M.A.M.C., New Delhi recommending that the pay scale of the post of Assistant Professor of Statistics existing in M.A.M.C. be brought at par with the post of Reader Bio-statistics existing in the University College of Medical Sciences. The applicant has also filed a comparative statement containing the qualifications for appointment to the post of Assistant Professor of Statistics, M.A.M.C. and of Reader in Bio-statistics, University College of Medical Sciences which are reproduced below:

Maulana Azad College,
New Delhi.
Assistant Professor of
Statistics.

University College of Medical
Sciences, New Delhi.
Reader in Bio-statistics.

Pay scale:(Revised)Rs.700-1300

Pay scale(revised)Rs.1200-1900

Qualifications:

- i) Second Class Master Degree in Statistics or Mathematics (with Statistics) of a recognised University or equivalent.
- ii) Three years research/teaching experience in Statistics.

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- i) Experience of designing and planning of research pertaining to public health problem.
- ii) Knowledge of Hindi.

Duties

- i) Teaching of under-graduate and post-graduate medical students and research,
- ii) Any other duties as may be assigned by the authorities from time to time.

Qualifications:

- i) M.Sc. First Class or High Second Class in Statistics Candidates possessing Ph.D. Degree will be given preference.

DUTIES

- i) Teaching of Bio-statistics to:
 - a) Under-graduate medical students
 - b) post-graduate medical students i.e. MAMC etc.
 - c) Faculty members of other Deptts. of the College.
- ii) Assisting in the planning, formulation and evaluation of the Bio-statistics component of research studies undertaken by the Deptt./other Deptts. of the College.
- iii) Undertaking research projects
- iv) Any other duty assigned by the Head of the Department.

8 The recommendation of the Dean, M.A.M.C., was not accepted by the Delhi Administration vide letter dated 23.1.1978 (Annexure VIII) in which it has been clearly stated that the two posts are filled by direct recruitment but the field of eligibility is based on different qualifications as well as experience. It is also obvious from the above reproduced chart that whereas for the post of Assistant Professor of Statistics, Master Degree II Class with three years experience is essential, for the post of Reader in Statistics is essential and preference in Bio-statistics M.Sc. I Class or high II class is to be given to Ph.D. in the subject. The duties attached to these two posts are also different. Thus, from the documents filed by the applicant, it is evident that at the relevant time when the applicant was appointed in 1973 as an Assistant Professor of Statistics he could not be found suitable for appointment as a Reader in Bio-statistics in the University College of Medical Sciences, New Delhi.

9. The learned counsel for the applicant placed reliance on the authority of Randhir Singh Vs. Union of India, reported in 1982(1)SCC page 618. In this reported case, there was a lower scale of pay for drivers in Delhi Police Force than for those in Delhi Administration and Central Government and it was held that this is an unreasonable classification and not in consonance with the principles of 'equal pay for equal work'. The Hon'ble Supreme Court also referred to Article 39(d) of the Constitution of India which proclaims "equal pay for equal work for both men and women". In this reported case, there was no distinction at all in the eligibility for appointment to the posts of Driver, while in the present case, there is a lot of difference in the

pre-requisite qualifications prescribed for the two posts, a comparison of which has been given in para 7 above. Thus, this authority cannot be applied to the present case.

10. The learned counsel for the applicant also referred to a number of other authorities* but none of these have any of the facts analogous to the present case.

11. In any case, the applicant had made the first representation on 11.8.1975 (Annexure II) and it was rejected by the order dated 23.1.1978 (Annexure VIII) by respondent No.2. The present application was filed on 23.10.1986 and the applicant claimed the relief for revised pay scale of Rs.1100-1600 from the date of his appointment which obviously is barred by time and pertains to a period much earlier than three years from the coming into force of the Administrative Tribunals Act, 1985 in November, 1985, and cannot be considered in view thereof of Section 216/ This is a mandatory provision under the Administrative Tribunals Act. The above view has already been taken in many decisions of this Tribunal.. i.e. 1986 ATR(1) page 20, R.N. Singhal Vs. Union of India; 1987(1) ATR page 292, Bimla Mukerji Vs. Union of India. In Jai Guru Goswami Vs. C.S.I.R. 1986 (6) ATC page 24 the Bangalore Bench of this Tribunal held that the delay cannot be condoned in cases where the cause of action arose before 1982. Thus, in any case the relief prayed for the revised scale of pay Rs.1100-1600 from the date of his appointment is beyond the jurisdiction of this Tribunal.

*1. 1984(2) SCC page 142, Dr. T.S. Raman Vs. U.O.I. & Ors.
 2. 1985 Supp. SCC page 94, P. Sarita and Ors. Vs. U.O.I.
 3. 1986(1) SCC page 639, Surinder Singh Vs. Engineering -in-chief, C.P.W.D.
 4. 1977(2) SLR page 403, Khirod Chander Dass Vs. State of Orissa.

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12. The learned counsel for the respondents has relied on the authority of State of U.P. Vs. J.P. Chaurasia, AIR 1989 SC page 19. Their Lordships held that the comparison is sought to be made with those who are not similarly placed and the recommendation of the Pay Commission could not be interfered with.

13. It has been further contended by the respondents that the applicant has already been allowed the revised pay scale on the basis of the recommendations of the Dean M.A.M.C. from the date the Ministry of Health and Family Welfare approved the revised pay scale for the applicant. There is no question now to give retrospective application of this order. There is nothing on record to show that the impugned order suffers from any illegality or is in any manner arbitrary or discriminatory in nature. On the other hand, the impugned order gives the relief which the applicant was claiming soon after the recommendations of the 3rd Pay Commission came to light. In any view of the matter no case has been made out to interfere with the impugned order nor it could be said to be in any way violative of Articles 14 and 16 of the Constitution.

14. In view of the above discussion, the application is devoid of any merit and is dismissed with no order as to costs.

J. P. Sharma
(J.P. SHARMA) 30.10.90
MEMBER(J)

P. C. Jain
(P.C. JAIN) 31/10/90
MEMBER (A)