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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH:
NEW DELHI.**

D.A. 1624/87

DATE OF DECISION: 23.4.1993

Bhanu Pratap.

... Petitioner.

Versus

Union of India
through
The Secretary,
Ministry of Agriculture,
Department of Agriculture
and Co-operation,
New Delhi.

... Respondent.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. B.N. DHOUNDIYAL, MEMBER(A).

For the Petitioner.

... Shri B.B. Raval,
Counsel.

For the Respondent.

... Shri M.L. Verma,
Counsel.

JUDGEMENT (ORAL)

(By Hon'ble Mr. Justice V.S. Malimath,
Chairman)

This petition is by Shri Bhanu Pratap, who was appointed as Senior Technical Assistant (Poultry) in the scale of Rs.1640-2900 as per offer made in that behalf on 24.10.1986, claiming that he should be accorded the pay scale of Rs.2000-3500 invoking the principle of equal pay for equal work.

2. It is necessary to note at the outset that the petitioner was not a person in service before the pay-scales were revised in pursuance of the recommendations of the IVth Pay Commission. The offer itself was made on 24.10.1986 offering him the post of Senior Technical Assistant (Poultry) in the scale of Rs.1640-2900 and asking him if he was willing to accept the offer which includes the pay scale, as aforesaid. The petitioner accepted the offer without any demur and thereafter started claiming that he has been discriminated

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in the matter of according the appropriate pay scale. It is in this back ground that we have to examine the case of the petitioner.

3. It was argued by Shri Raval, learned counsel for the petitioner, that the respondents have failed to give effect to the recommendations of the IVth Pay Commission. Reliance was placed on Part-I, paragraph XVI of the IVth Pay Commission report, copy of which has been produced as per Annexure A-6. Relying on the said recommendation, it was urged that the petitioner was entitled to be accorded the pay scale of Rs.2000-3500. On a careful reading of the said recommendation, we find that it has nothing to do with the cadre of Senior Technical Assistant (Poultry) with which we are concerned in this case. The title of paragraph XVI Veterinary Officers (sub-paragraphs 11.91 to 11.94) on which the petitioner has placed reliance, deals with the claim of Veterinary Officers in a higher pay scale of Rs.2000-3500. The IVth Pay Commission has noticed that there are about 150 Veterinary Officers with degree in Veterinary Science in the Ministries of Agriculture and Rural Development, Health and Family Welfare, Home, Environment and Forests, in addition to there being a large number of Veterinary Officers working in the Union Territory. It is no doubt true that the Veterinary Officers have been recommended a higher pay scale of Rs.2000-3500. We must firstly notice the reasons for doing so and the condition on which the higher pay scale has been accorded. This is contained in paragraph 11.94. It is stated that so far as Veterinary Officers are concerned, they are required to possess a degree in Veterinary Science. There is no uniformity as in some cases the pay-scale is Rs.425-700 and in respect of others it is Rs.550-900. It is

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further stated that there is need to make the pay scale more attractive and to bring about uniformity as far as possible. The Pay Commission/recommended that all posts for which a degree in Veterinary Science is the minimum qualification should be in the scale of Rs.2000-3500. Keeping in view this general recommendation, the Government has been directed to identify the posts for which a degree in Veterinary Science is the minimum qualification and give the pay scale of Rs.2000-3500 for such posts in the Central Government and/Union Territory. One of the reasons stated is that it is necessary to grant higher pay scale to the Veterinary Officers,/who possess a degree in Veterinary Science. Apart from the fact that the recommendation of the Pay Commission is not in favour of the Senior Technical Assistants (Poultry) but in favour of the Veterinary Officers, the thrust of the recommendation is the possession of the degree in Veterinary Science. The Pay Commission has made a specific direction to the Government to identify such of the posts for which a degree in Veterinary Science is the minimum qualification and accord the higher pay scale of Rs.2000-3500 only to such posts and not to others. Hence, the possession of a degree in Veterinary Science has been regarded as of vital importance meriting the higher pay scale of Rs.2000-3500. We may mention at this stage that the petitioner is not a person who has a degree in Veterinary Science in his favour. Hence, on the broad principle incorporated by the Pay Commission's recommendations, it is obvious that the persons who did not possess a degree in Veterinary Science did not merit the higher scale of Rs.2000-3500. As the Pay Commission's recommendation does not govern the revision of pay scale to the Senior Technical Assistants (Poultry), the

first contention has to be rejected solely on this ground.

4. The next contention of Shri Raval, learned counsel for the petitioner, is that the petitioner, who is a holder of the post of Senior Technical Assistant (Poultry), should be accorded the same pay scale as that of the Veterinary Officer with a degree in Veterinary Science. It is well settled that when a claim is made before the Court or the Tribunal invoking the principle of equal pay for equal work, the burden lies on the petitioner of establishing the equivalence of the posts with respect of which he claims parity in regard to the pay scale. It is also well settled that the parity should be claimed by showing that the responsibilities, functions and duties are substantially on par. The petitioner has not placed any material whatsoever to show that the Senior Technical Assistant (Poultry) from the point of view of duties, functions and responsibilities, is on par with the Veterinary Officer. Hence, the petitioner is not entitled to invoke the principle of equal pay for equal work.

5. It was next contended by the learned counsel for the petitioner that when others similarly situate have been accorded the higher pay scale of Rs.2000-3500, there is no justification not to accord the same pay scale to the petitioner. The petitioner has pleaded in para 6.6 of his application that Sarvashri R.P. Mishra, B.B. Das, A.K. Sharma, C.S. Sahukar, Rajnish Kumar Gupta and M.M. Beg and Prabhu Dayal, Senior Technical Assistants (Livestock/Poultry) having the same qualification have been assigned the grade of Rs.2000-3580 on the basis of the recommendation of the IVth Pay Commission. The respondents have stoutly denied this averment and stated as follows:

"That S/Shri R.P. Mishra, B.B. Das, A.R. Sharma, C.S. Sahukar, Rajnish Kumar Gupta and M.M. Beg mentioned by the applicant are not Senior Technical Assistant (Poultry). They are all Senior Technical Assistant (Livestock) which post has got separate Recruitment Rules. They are all Veterinary graduates and in possession of degree in Veterinary Science. Shri Prabhu Dayal, Senior Technical Assistant (Poultry) quoted by the applicant is a Veterinary graduate in possession of degree in Veterinary Science and has therefore been given the revised pay scale of Rs.2000-3500. As the applicant is not in possession of degree in Veterinary Science and Animal Husbandry, he has been given the revised pay scale of Rs.1640-2900 in accordance with the Government decision that others (Non-Veterinary graduates) will get the revised scale of pay of Rs.1640-2900".

Thus, it is clear from the stand taken in the reply that the Senior Technical Assistants(Livestock) and Senior Technical Assistants (Poultry) being governed by different set of rules cannot be regarded on par. The positive stand taken in the reply is that none has been given the higher pay scale of Rs.2000-3500 who did not possess a degree in Veterinary Science. As already stated, so far as the petitioner is concerned, he does not possess a degree in Veterinary Science. It is stated in the reply that a Bachelor degree in Agriculture and Animal Husbandry possessed by the petitioner is only a four years' course whereas the degree course in Veterinary Science and Animal Husbandry is five years' course. It is, therefore, obvious that from the point of view of qualifications, the one possessed by the petitioner cannot be regarded as on par with a degree in Veterinary Science. If we bear in mind the IVth Pay Commission's recommendations, it becomes clear that the emphasis has been laid for giving the higher pay scale of Rs.2000-3500/^{on} a degree in Veterinary Science. Hence, it is

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of crucial importance for the purpose of according higher pay scale of Rs.2000-3500 that the persons must possess a degree in Veterinary Science. As already stated, the petitioner does not possess such a degree. It is, therefore, not possible to accept the case of the petitioner that others similarly situate having been accorded the higher pay scale of Rs.2000-3500, the same treatment should be given to the petitioner as well.

6. For the post of Senior Technical Assistant(Poultry), the essential qualification prescribed by the Recruitment Rules, as is clear from Annexure A4 produced by the petitioner, is a degree in Animal Husbandry or Veterinary Science from a recognised university or equivalent. The petitioner, in fact, possesses a degree in agriculture and animal husbandry. The respondents have taken the positive stand that the petitioner does not possess a degree in Veterinary Science. What he really possesses is a degree in agriculture and animal husbandry. The stand taken in the reply is that a Bachelor degree in agriculture and/husbandry is not one of the essential qualifications prescribed by the rules. The petitioner has,however, been selected and appointed as Senior Technical Assistant (Poultry). This may be because the Union Public Service Commission as per note to the rule has power to relax qualification in case the candidate is otherwise qualified. It may be that the petitioner has been able to secure appointment not because he possesses the essential qualification but because of the relaxation. It is not necessary for us to probe further into this aspect, as the petition is liable to be dismissed for the reasons already stated above.

7. For the reasons stated above, this petition fails and is accordingly dismissed. No costs.

B.N. DHOONDIYAL
(B.N. DHOONDIYAL)
MEMBER(A)

'SRD'
230493

V.S. MALIMATH
(V.S. MALIMATH)
CHAIRMAN