

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(6)

O.A.No. 1088/87.

Date of decision 23.12.92

Shri H.N. Sinha ... Applicant

V/s

Union of India & Ors. ... Respondents

CORAM:

The Hon'ble Mr. Justice U.C. Srivastava, Vice-Chairman(J)

The Hon'ble Ms. Usha Savara, Member (A)

For the Applicant ... In person

For the Respondents ... Shri M.L. Verma, counsel.

J_U_D_G_E_M_E_N_T

[Delivered by Hon'ble Mr. U.C. Srivastava, VC(J)]

The applicant, who has now retired from service during the pendency of this case, before retirement, approached this Tribunal praying for Selection Grade with effect from August, 1983 in the scale of Rs. 550-900 as per recommendations of the Third Pay Commission accepted by the Government vide O.M. dated 10.1.1977 be granted to him.

The applicant was the senior-most person in the cadre of Technical Assistant/Senior Technician and he

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was earlier selected as Senior Technician in the Lady
Harding Medical College in the year 1962 which was
later on taken over by the Ministry of Health. The
Recruitment Rules for the post were approved on the
12th September, 1973. Under the recruitment rules
these posts were ^{to be filled by} ~~the promotional posts~~ and 100% direct
recruitment. As the recommendations were implemented
but the benefit was not given to the applicant, He
represented in the month of February for grant
Selection Grade. The representation was forwarded to
the Director General but no reply was given despite
three reminders upto 1986 whereafter the applicant
approached the Ministry of Health, but the Ministry also
failed to decide the matter and had not given any reply.
According to the respondents earlier it was 100 per cent
direct recruitment post but later on the post was made
a promotional avenues to laboratory Technicians
(Rs 380-560 pre-revised) and suitable modifications
were proposed in the Draft Recruitment Rules and it was
thereafter ^{that} ad hoc promotions were made. Now if the
Selection Grades are proposed in the cadre, the same
will be a contradiction to the existing practice which

has been done in the larger interest of the employees in the lower grade i.e. Technicians. But admittedly, the draft recruitment rules has passed through various agencies including the departmental council but the same has not seen the light of the day and have not yet been published meaning thereby to say not implemented. The short question which now remains relates to a person who under the recruitment rules was holding a particular post and was entitled to the benefit of the recommendations of the Third Pay Commission duly accepted by the Government is to be relegated in the background and not to be granted the same in view of the draft recruitment rules and acting on the same. The respondents may act on the draft amendment recruitment rules. The department affect the interest of the person who is legally entitled to draft amendment rules. The department cannot go over and above the recruitment rules or the benefits accruing out of the same as the applicant was holding a particular post and in the absence of draft recruitment rules was entitled to the benefits so conferred by the Third Pay Commission and accepted by the Government, the respondents will have to do the same. Accordingly the respondents are

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directed to give selection grade to the applicant
with effect from due date and as the applicant has
retired from service he will be given consequential
benefits as well as other post retirement benefits
and this should be done within a period of three months
with no order as to costs.

U. Savara
Usha Savara
Member (A)

U.C. Srivastava
U.C. Srivastava
Vice-Chairman (J)

MP 1707/93
S. J. K. S.