

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI  
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(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.

JUDGEMENT

Delivered by Hon'ble Mr. U.C. Srivastava, VC(J) 7

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

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 ~~the promotional posts~~ <sup>to be filled by</sup> 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 avenue to laboratory Technicians (Rs. 380-560 pre-revised) and suitable modifications were proposed in the Draft Recruitment Rules and it was thereafter <sup>that</sup> 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 are 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 accuring 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

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  
5 (cited)