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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 1034/1990.

DATE OF DECISION: 10-1-1991.

Rattan Singh

....

Applicant.

V/s.

Medical Superintendent,
Loknayak Jai Prakash Narain Hospital,
New Delhi

.... Respondents.

CORAM: Hon'ble Mr. B.S. Sekhon, Vice-Chairman (J).
Hon'ble Mr. P.C. Jain, Member (A).

Ms. Meera Bhatia, counsel for the applicant.
Ms. Avnish Ahlawat, counsel for the respondents.

(Judgment of the Bench delivered by
Hon'ble Mr. P.C. Jain, Member (A)).

JUDGMENT

The applicant who was appointed as Nursing Orderly on 23.7.1970 in the Loknayak Jai Prakash Narain Hospital, New Delhi and was later promoted to the post of Dresser in the pay scale of Rs.800-1150 with effect from 30.3.1989, vide orders dated 30.3.1989 (Annexure 'B' to the O.A.), has filed this application under Section 19 of the Administrative Tribunals Act, 1985, as he is not being paid the salary of the post of Dresser. He has prayed for the following reliefs: -

- (1) Grant of pay in the pay scale of the post of Dresser with effect from 30.3.1989, which was the date of his promotion.
- (2) He be treated as continuing in service as Dresser for all purposes and status-quo be maintained.
- (3) Release of all the increments which have accrued from the date of his promotion to the post of Dresser till date.
- (4) To set aside and quash the order dated 8.5.90 and for a direction to the respondents to add the applicant's Matriculation qualification in the service book.

2. The respondents have contested the claim of the applicant and have filed their reply. The applicant has also

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filed a rejoinder thereto. We have perused the material on record and have also heard the learned counsel for the parties.

3. The fact of the appointment of the applicant as Nursing Orderly and his promotion as Dresser with effect from 30.3.1989 in temporary capacity is not disputed. We were also informed in the course of oral submissions that the applicant was still working as Dresser. In the order dated 30.3.89 (Annexure 'B' to the O.A.), the applicant's promotion to the post of Dresser is stated to be in the scale of Rs.800 - 1150 plus usual allowances with effect from 30.3.89 (F.N.) in temporary capacity. In the reply of the respondents, there is nothing to show that the applicant has not been performing the duties of the post of Dresser with effect from the date of his promotion. There is also no dispute about the work and responsibilities of the post of Dresser held by the applicant and of other similar posts under the respondents. We have, therefore, no hesitation in holding that the applicant is entitled to pay with admissible allowances as also the increments which may have fallen due in the scale of pay of the Dresser under the respondents with effect from the date he has been working as such. Denial of 'equal pay for equal work' would be arbitrary and violative of the provisions of Articles 14 and 16 of the Constitution. There are a number of judgments* of the Hon'ble Supreme Court on this point.

* (1) Randhir Singh Vs. Union of India - AIR 1982 SC 879.

(2) Surinder Singh Vs. Engineer-in-Chief, CPWD - (1986) 1 SCC 639.

(3) Daily Rated Casual Labour, P&T Department Vs. Union of India AIR 1989 SC 2342.

(4) Supreme Court Employees Welfare Association Vs. Union of India and Others and Supreme Court Fourth Class Employees Welfare Association Vs. UOI & Another and S.P. Jain and Another Vs. UOI and Another - AIR 1990 SC 334.

(5) Dhirendra Chamoli Vs. State of U.P. (1986) 1 SCC 637.

4. Vide impugned order dated 8.5.90 (Annexure 'D' to the O.A.), the applicant was informed that the Examination passed by him is not recognised by the Central Government / Delhi Administration. Accordingly, the applicant has prayed that this order be set aside and the respondents be directed to add his Matriculation qualification in the service book. Admittedly the applicant had passed 8th Class when he was appointed as Nursing Orderly. He states to have passed his Matriculation from the Board of Adult Education & Training in 1988, vide certificate dated 26th December, 1988 (Annexure 'A' to the O.A.). According to the respondents, the Examination in which the applicant had passed, is not recognised as a Matriculation Examination by the Central Government / Delhi Administration and as such, this cannot be treated as such and cannot be placed on his service record.

5. There is nothing before us to show that the above contention of the respondents is not correct. In fact, learned counsel for the applicant fairly conceded during the course of his oral submissions that it has not been recognised by the Central Government / Delhi Administration as such. In view of all this, impugned order dated 8.5.90 cannot be quashed by us and the prayer of the applicant in this respect cannot be granted.

6. Another prayer of the applicant is for a direction that the applicant be treated as continuing in service as Dresser for all purposes and status-quo be maintained. As already stated above, the applicant has been working as Dresser as on the date of hearing in this case. As regards the prayer for maintenance of status-quo, we are of the view that this is premature, as no cause of action has accrued to the applicant in this regard so far. Neither the applicant has been ordered to be reverted from the post of Dresser to the lower post of Nursing Orderly, nor any action in this regard is shown to have been initiated by the respondents. The applicant may approach the

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Tribunal on this point at the appropriate time in accordance with law, if so advised.

7. In view of the foregoing discussion, the application is partly allowed in terms of the directions to the respondents to allow to the applicant pay in the scale of pay for the post of Dresser with effect from the date of his appointment to that post with admissible allowances thereon as also the increments which may have fallen due in the said scale of pay for the period of service rendered by the applicant on that post. The respondents are directed to comply this direction within two months of the date of receipt of copy of this judgment. We leave the parties to bear their own costs.

C. C. Jain
(P.C. JAIN)
Member (A)

B. S. Sekhon
(B.S. SEKHON)
Vice-Chairman (J)

10-1-91