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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No. 1426/90.

Date of decision. 9-9-94.

Hon'ble Shri S.R. Adige, Member (A)

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri Gian Singh,
S/o Shri Gurdas Singh,
r/o WS-816, Nangal Rai,
New Delhi-46.

.. Applicant

(Advocate by Shri Ashok Aggarwal)

versus:

1. Union of India
Through its Secretary,
Ministry of Health and
Family Welfare,
Nirman Bhawan,
New Delhi.

2. The Medical Superintendent,
Safdarjang Hospital,
New Delhi.

.. Respondents

(Advocate by Shri M.K. Gupta)

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✓ Hon'ble Smt. Lakshmi Swaminathan, Member (J) ✓

This application has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985 for revision of his payscale in the post of Electrician in the Safdarjang Hospital from Rs. 950-1400 to Rs. 1320-2040 w.e.f. 1.1.1986 on the principle of 'equal pay for equal work'.

2. The applicant was initially employed as Electrician on 8.10.1965 in the pay scale of Rs. 125-155 which

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was revised to Rs 260-350 with effect from 1.1.1973 by the Third Pay Commission and to Rs 950-1400 with effect from 1.1.1986 by the Fourth Pay Commission. The grievance of the applicant is that he should be initially given the pay scale of Rs 150-240 with revised scale of pay of Rs 380-560 with effect from 1.1.1973 and further revised pay scale of Rs 1320-2040 w.e.f. 1.1.1986, on par with 'Electrical Technicians' in the Lady Harding Medical College and Smt. Sucheta Kripalani Hospital and Electrician under the Ministry of Defence and C.G.H.S., who he claims performing the similar duties, but are getting higher pay scale of Rs 380-560 w.e.f. 1.1.1973 and Rs 1320-2040 w.e.f. 1.1.1986. He has made several representations for revision of his pay scale which have not been acceded to. His claim is that the respondent's action is arbitrary and discriminatory as the principle of 'equal pay for equal work' has been denied to him thereby violating the provisions of Articles 14 and 16 of the Constitution.

3. The applicant had also referred the matter to the Conciliation Officer, Ministry of Labour, who, however, declined to make a reference under the Industrial Disputes Act.

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In the rejoinder, the applicant has relied on the letter written by the Medical Superintendent, Safdarjang Hospital dated 5.6.1981 (Annexure-B) in which it has been recommended that the disparity of pay scales should be removed and the pay scale of Electrician in the Safdarjang Hospital should be revised to the higher scale. It is also submitted that the applicant has educational and technical qualifications which are more than what are required for the post of Electrician.

The learned counsel for the applicant has relied on the principle laid down by the Supreme Court in Randhir Singh

& Ors. F AIR 1992 SC 879] to substantiate his claim

that he is, therefore, entitled to the higher scale of pay i.e. Rs 1320-2040.

4. The learned counsel for the respondents has vehemently opposed the above claim of the applicant stating that having regard to the observations of the Supreme Court in State of Madhya Pradesh v. Pramod Bhartiya [1993(1) SCC 539] the principle of 'equal pay for equal work' will not apply when the qualification and experience required for the posts are different and merely having the same nomenclature would not be sufficient. The respondents have stated in their reply

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that while in Smt. Suchita Kripalani Hospital no post of Electrician exists, there is a post of Electrical Technician which is in the higher pay scale. The educational qualifications for this post are Matriculation plus Diploma from I.T.I. in electrical trade, whereas for the post of Electrician in Safdarjang Hospital, the prescribed qualifications are only Middle Class Pass plus 1st Class Wireman Certificate and 3 years experience or Certificate from I.T.I. They have also pointed out that in the Ministry of Defence the post of Electrician is also in the pay scale of Rs 950-1400 with essential qualification of middle class pass plus certificate as Wireman and 3 years experience. The post of Electrician in C.P.W.D. require a higher educational qualification of Matric Pass. Therefore, according to the respondents the various examples given by the applicant, namely, posts in the other two Hospitals and C.P.W.D. carry higher responsibilities and require higher educational qualifications than the post of Electrician in Safdarjang Hospital. In the circumstances, according to them, the posts are not comparable. They have also taken the plea that though his case was recommended to

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Director General, Health Services for favourable consideration,
no reply has been received.

5. The Supreme Court has in a number of cases held that the principle of 'equal pay for equal work' is not an abstract doctrine but one of substance. The higher qualification for the higher grade which may either be academic qualification and experience based on length of service can be sustained on the ground of reasonable classification and the persons can be given two grades with different scales of pay [AIR ¹⁹⁸² SC P-279 and AIR 1988 SC 1291]. The claim of the applicant that he, in fact, possesses higher qualification which is sufficient for his appointment in the higher scale will not be of any use because what has to be seen is the prescribed qualification for the post. Therefore, his claim that he is Matric Pass whereas only middle class pass is sufficient for holding the post of Electrician in Safdarjang Hospital will not entitle him to the higher scale of pay available to a person holding the post of Electrical Technician in Smt. Suchita Kripalani Hospital and Lady Harding Medical College. It is also a well

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settled principle that unless the court has reason to believe that a scale of pay attached to a particular post is unreasonable, the matter should normally be left for determination by expert bodies like the Pay

Commission. (State of U.P. v. J.P. Chaurasia [AIR 1987 SC p. 19]

and Supreme Court Employees Welfare Association v. U.O.I.

[AIR 1990 SC 334] In yet another case State of

Madhya Pradesh v. Pramod Kumar Bharatiya and Ors. [JT

1992(5) SC 683], the Supreme Court considered the

question whether two sets of Lecturers in Madhya

Pradesh, one in the Higher Secondary School and the

other in the Technical School having similarity in

qualifications, service conditions and status of the

school be paid equal pay. It was held that this would

significantly depend upon whether they are discharging

similar duties, functions and responsibilities. In this

case it was held that there was conspicuous absence of

any clear allegation and material suggesting that both

the categories of Lecturers performed similar functions. It was further held that the burden is upon the petitioners (respondents herein) to establish their right to equal pay or the plea of

6. In the instant case, the applicant has totally

failed to establish what the functions of an Electrician in

the Safdarjang Hospital or Electrical Technician in the

other two Hospitals or Electricians in the other organizations

/ discrimination, as the case may be, which they had failed to discharge.

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are expected to discharge together with their responsibilities.

It is, therefore, not possible to say whether, in fact, these

persons discharge similar duties, functions and responsibilities.

Apart from this, it is also seen that the qualifications

required for the posts which are claimed to be similar are,

in fact, different, the ^{of Electrical Technician} one, carrying the higher scale of pay

requiring a higher educational qualification also.

7. Therefore, in the facts and circumstances of the

case, and having regard to the principle of 'equal pay for

equal work' enunciated by the Supreme Court in a catena of

cases, we do not find any sufficient material to direct

revision of ^{applicant's} pay to the higher scale with effect

from 1.1.1986.

8. In the result, the application fails and is

dismissed. There will be no order as to costs.

Lakshmi Swaminathan
(Lakshmi Swaminathan)

Member(Judicial)

S.R. Adige
(S.R. Adige)

Member(Administration)