

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA No. 1475/90

Date of decision: 16.02.93

Smt. Pratima Pal & Others

Applicant

Versus

Union of India & Others

Respondents

Sh. B.S. Mainee

Counsel for the applicant

Sh. M.L. Verma

Counsel for the respondents

CORAM

Hon'ble Sh. P.K. Kartha, Vice Chairman (J)

Hon'ble Sh. B.N. Dhoundiyal, Member (A)

1. Whether Reporters of local papers may be allowed to see the judgement? *Yes*

2. To be referred to the Reporters or not ? *Yes*

J U D G E M E N T

(Of the Bench delivered by Hon'ble Sh. B.N.

Dhoundiyal, Member(A))

This OA has been filed by Smt. Pratima Pal and her seven colleagues challenging the impugned order dated 26.10.89 whereby the benefit of the judgement dated 4.2.1988 in T.A. No. 360/86 by Jabalpur Bench of this Tribunal ^{for} was confined to their junior colleague Kum. Vidya Gupta and was not extended to them.

2. All the applicants were working as untrained Graduate Teachers (Rs. 330-560) in the Dandakaranya Project established by the Government of India, Ministry of Works, Housing and Rehabilitation for rehabilitating displaced persons of erstwhile East Pakistan. This project was also looking after Mana Camp which was separated in 1965. Entire staff of Mana was part of the Dandakaranya Project till then and the pay

10

scales in both the projects were similar. The pay scales recommended by the Third Pay Commission for both Mana and Dandakaranya Project accepted and notified by the Government were identical. The pay scales of teachers of Mana Group were revised w.e.f. 1.1.73 vide letter dated 5.8.82 by the Department of Rehabilitation and trained matriculates and untrained graduate teachers were placed in the pay scale of Rs. 425-640. In their letter dated 4.2.1983 (A-4), the Project Authorities requested the Government of India to extend these scales to similar functionaries in Dandakaranya Project also. A scale of Rs. 425-640 was recommended for Trained matriculares/untrained Graduate teachers.

2. According the applicants, when these scales were not extended to Dandakaranya Project, a number of cases were filed in different Courts/Tribunals which invariably gave relief to the applicants upholding the principle of equal pay for equal work. One of their junior colleagues-Miss Vidya Gupta also filed a Writ in the Madhya Pradesh High Court which was transferred to Jabalpur Bench of the Tribunal. In the judgement dated 4.2.88 (A.6), the Tribunal directed the respondents to pay Miss Vidya Gupta the pay scale of Rs. 425-640 from 21.8.76 till date she worked as Asstt. Teacher in a Middle School. The applicants were also teaching middle classes and were therefore entitled to the scale of Rs. 425-640. By the impugned order dated 26.10.89, the respondents have restricted the benefit of this judgement to Miss Gupta only. Their representations have not elicited any response. In 1988, the applicants were declared surplus and on absorption as U.D.Cs in different offices, they have been placed in a lower scale than they would have been entitled to, had the benefit of judgement in Miss Vidya Gupta's case been extended to them. The following reliefs have been prayed for :

- "1. Direct the respondents to give the scale of pay of Rs. 425-640 to the applicants from the date from which they had been working as untrained graduate teachers and taking middle school classes, or high school classes and scale of Rs. 1400-2600 (Revised) w.e.f. 1.1.1986 with all the consequential benefits.

2. Direct the respondents to revise their salaries and to absorb them in the office in the appropriate scale after giving the scale of Rs. 425-640 as graduate untrained teachers.
3. Direct the respondents to revise the salary and pay the arrears of pay to them.
4. That any other or further orders which this Hon ble Tribunal may deem fit and proper under the circumstances of the case, may also be passed in favour of them.
5. That the cost of these proceedings may also be awarded in favour of them. "

3. The respondents have stated that the applicants were promoted as untrained graduate teachers and given the scale of pay Rs. 330-560/- on the basis of the recommendations of the IIIrd Pay Commission and pursuant to the judgement of the Orissa High Court in M.P. No. 659/79. This scale was revised to Rs. 1200-2040 w.e.f. 1.1.86. In accordance with the judgement of Madhya Pradesh High Court, orders were issued on 5.8.82 (Annexure R.1) revising the scale of pay of various categories of teaching staff in Mana Group w.e.f. 1.1.73. These scales were not extended to Dandakaranya Project as the recruitment qualifications for these posts were not similar. However, in pursuance of the judgement of Orissa High Court, the scale of pay for untrained graduate teachers was revised from Rs. 260-430 to Rs. 330-560. As stated earlier, on the recommendations of the IVth Pay Commission, this scale was revised to Rs. 1200-2040 w.e.f. 1.1.86. The Central Administrative Tribunal, Jabalpur in case of Kumari Vidya Gupta Vs. U.O.I. in T.A. 360/86 held that as she was working in a Middle School, she was entitled to the scale for teachers in Middle Schools (Rs. 425-640) as long as she worked there. Thus, this scale was allowed not for the post held by her but for the specific period, she worked in a Middle English School.. The applicants are teaching in ordinary Middle Schools.

4. We have gone through the records of the case and heard the learned counsel for the parties. It is clear from letter dated 5.8.82 revising the pay scales of various categories of teachers of Mana Group (Annexure-R1) that these orders do not cover the category of untrained graduate teachers. This is further clarified by the following note after para 2 of letter dated 4.2.83 from Dandakaranya authorities to the Ministry of Labour and Rehabilitation (A.4):-

" We do not have Head Master/Head Mistress in primary school and Graduate Teachers in H.S. Schools. Instead we have Trained Matriculates/Untrained Graduates and Upper Division Teachers respectively."

5. It is a fact that the scale of Rs. 425-640 was recommended for this category. However, as this category did not exist in Mana Group, there cannot be any comparison. There is, therefore, no case for interference with the recommendations of the Pay Commission which have already been implemented revising the scale from Rs.260-430 to Rs. 330-560 then again to Rs. 1200-2040.

6. The judgement in case of Miss Vidya Gupta dealt with a case, where applicant being an untrained teacher appointed in a primary school was nevertheless posted due to administrative reasons to a Middle School and worked for a long time there. The Tribunal found no justification for disparity in pay scales when she was required to work in the same cadre and do the same work for which others in the cadre drew higher salary. The operative part of the orders reads as under :

"Hence we direct respondents to pay petitioner Vidya Gupta salary in the pay scale Rs. 425-640 from 21.8.76 upto date she has worked or will work in the Middle English School, Kapsi. "

13

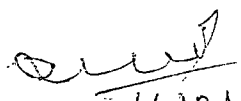
7. This case is distinguishable in as much as a formal order posting Miss Vidya Gupta to Middle English School, Kapsi had been issued. Though the applicants have averred that they too were taking middle school classes, no such formal orders have been produced by them.

8. In view of the aforementioned considerations, we hold that the applicants are not entitled to succeed and the application is dismissed.

No order as to costs.

B.N. Dhole
(B.N. Dhoundiyal) 16/2/93

Member(A)


16/2/93
(P.K. Kartha)

Vice Chairman(J)