

SIR
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA. No. 2644/90

Dated this the 3rd of February, 1995

Shri N.V. Krishnan, Hon. Vice Chairman(A)
Dr. A. Vedavalli, Hon. Member(J)

Shri R.P. Singh Kunwar,
S/o Late Shri Banwari Lal Singh Kanwar,
R/o 224-B, D.G.II, Vikaspuri,
New Delhi.Applicant.

By Advocate: Shri V.S.R. Krishna.

versus

1. Union of India through
Secretary to the Government of India,
Ministry of Finance,
Department of Expenditure,
Implement Cell, New Delhi.
2. Union of India through Secretary,
Ministry of Social Welfare,
Government of India,
Shastri Bhawan, New Delhi 110 001.
3. Chief Secretary,
Union Territory of Delhi,
Sham Nath Road,
Delhi 110 054.
4. The Director of Social Welfare,
Delhi Administration,
Canning Lane, Kasturba Gandhi Road,
New Delhi 110 001.Respondents

By Advocate: Ms. Geeta Luthra by Ms. Veena Kalra.

O R D E R (Oral)
(By Shri N.V. Krishnan)

The applicant is working under the Delhi Administration in the Directorate of Social Welfare. His grievance is that unlike similarly placed persons, his pay scale has not been revised. The applicant was selected by the Union Public Service Commission (U.P.S.C. in short) for the post of Foreman Instructor-cum-Superintendent in the scale of Rs.650-950 and appointed to that post under the 4th respondent, Directorate of Social Welfare on 27.2.78. It is stated that as the holder of this

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post, the applicant is required to work on similar posts carrying various designations. Thus on the date of the application, he was working as a Child Development Project Officer (ICDS).

2. Two of the colleagues of the applicant in the Directorate, Shri A.K. Sinha and Ram Khilari, were appointed respectively as Superintendents, Home for Mentally Retarded Persons and Superintendent (Male) Hostel for SC Boys, both of which, are in the similar pay scale as the post of the applicant, namely, 650-950 on 29.3.78 and 16.4.78.

3. As a result of the recommendation of the III Pay Commission, the pay scales were revised from 1.1.73 and the Central Civil Services (Revised Pay Rules) 1973 were notified by OM dated 30.4.74. Subsequently, by the memorandum dated 2.2.78 issued by the Ist respondent, ie. Government of India, Ministry of Finance, Department of Expenditure, Implementation Cell, the pay scales of certain technical staff under the Directorate of Social Welfare, Delhi Administration were revised and it is stated that the revised pay scales would come into force w.e.f. 1.1.73 and that amendment would be made to the Central Civil Services (Revised Pay Rules) 1973.

4. The annexure to this memorandum indicates the particulars of the posts, the scale of pay applicable and the revised pay scales sanctioned. We are concerned with the first group of posts, for which, revised pay scale of Rs.1100-1600 have been sanctioned. It is indicated that the present pay scale

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for the posts which are 12 in numbers is Rs. 700-1100. It is stated that the pay scale of the posts to which A.K. Sinha and Ram Khilari were appointed have also been revised to Rs.1100-1600, though their previous scales were only Rs.650-950 and not Rs.700-1100. The applicant also made representation regarding the revision of his pay scale but he has not been given any final reply. Hence this OA has been filed with the following prayers:-

- "(a) The respondents be directed to fix the applicant's pay in the scale of Rs.3000-4500 with periodical increments in accordance with the provisions contained in Ministry of Finance letter dated 2.9.1978 with retrospective effect alike S/Sh. A.K. Sinha & Ram Khilari in the interest of equality and natural justice.
- (b) The respondents be further directed to calculate the arrear arising out of the difference of pay in the applicant from 27.2.1978 to till the revision of his pay in scale of Rs.3000-4500 and arrange payment of the same with interest thereon immediately.
- (c) The respondents may also be directed to pay all the other consequential monetary and seniority benefits to the applicant."

5. The respondents have filed their reply contesting these claims. It is stated that the applicant cannot compare himself with Shri A.K. Sinha and Ram Kilari because posts held by these three persons are different from each other, the recruitment rules are different, the duties and responsibilities are different. It is further stated that the 2 posts held by Shri A.K. Singh and Ram Khilari were upgraded from 1.1.73 as mentioned in the Annexure-5-OM dated 2.2.78. The same treatment was not given to the post held by the applicant, because the post held by him was not in existence on 1.1.73. It was created subsequently.

6. The reply has been filed only by Shri Nathu Singh, Joint Director, Department of Social Welfare, Delhi Administration and it would appear that it is not a reply on behalf of respondents No.1 and 2 i.e., Government of India. This respondent has stated that the representation of the applicant was sent to the Government of India, Ministry of Social Welfare on 13.4.84. It does not indicate what the Ministry (ie. 2nd respondent) did in this regard.

7. We have heard the learned counsel for the parties. The learned counsel for the applicant submitted that the ground that the post held by the applicant was not in existence on 1.1.73 is entirely irrelevant for considering the question, whether the revised pay scale sanctioned in 1978 should be applicable to his post also. He pointed out that as mentioned in para 4.5 of the OA, he has held a number of posts in his career which also includes the post of Sewa Sadan, Tikri Kalan, Delhi, which is the Beggars Home. For this post of Beggars Home, a higher pay scale of Rs.1100-1600 has now been specified. The learned counsel presented before us for our perusal a detailed chart showing the charges held by the applicant as well as the posts held by A.K. Sinha and Ram Khilari in order to show that some of the posts held by them are interchangeable and can be held by the applicant and that they carry similar responsibility and duties. Thus the posts of HLTB Tahirpur, Delhi and RCL Tahirpur Delhi have been held both by the applicant and A.K. Sinha. Likewise, the post of Children Home-1 and Children Home-2, Alipore

and Medical Care Home, Alipur have been held **both by** the applicant and Ram Khilari. It is further pointed out that the applicant has also held the post of Home of Male Beggars, which is also one of the post which has been upgraded.

8. It is in these circumstances that it is claimed that there is no ground, whatsoever, to deny the applicant the revised pay scale that has been given to the posts held by A.K. Sinha and Ram Khilari. The learned counsel for the respondents reiterated the stand taken in their reply. She was unable to clarify whether the representation which was sent to the Ministry in 1984 was ultimately considered on merits.

9. Having given our anxious consideration to the issues raised in this OA, we are of the view that the representation made by the applicant has not been considered properly by the 2nd respondent. The respondents admit in para-2 of the reply that the post of Foreman Instructor-cum-Superintendent (ie. the post held by the applicant) is a technical post. The OM dated 2.2.78 is for revision of pay scales of Technical staff and, therefore, should have applied to the applicant. The mere fact that the post of the applicant was created on 30.3.76 as stated in para-4.IV of the reply has no relevance whatsoever, in so far as determining the revised pay scale is concerned. That ground taken by the respondents, is therefore, totally baseless. After the revision of pay scales by the order dated 2.2.78, if any fresh post is to be created carrying such responsibilities, it should have been created only on the scale of

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Rs.1100-1600. Therefore to deny revision of pay scale to a post created on 30.3.71 is irrational and arbitrary. The respondents have to consider whether taking into account the duties and responsibilities of the posts held by the applicant as well as the fact that the applicant has also held other posts which have been held by A.K.Sinha and Ram Khilari to which the revised scale of pay has been applied- would not justify giving him also the benefit of higher pay scale of Rs.1100-1600 w.e.f. 1.1.73.

10. It is true that the applicant has claimed in this OA the pay scale of Rs.3000-4500. It is clarified that this is the pay scale which is in substitution to the pay scale of Rs.1100-1600 as a result of the recommendation of the IV Pay Commission. Therefore, what the applicant seeks is the pay scale of Rs.1100-1600 w.e.f. the date of his appointment on the post of Foreman Instructor-cum-Superintendent and the pay scale of Rs.3000-4500 w.e.f. 1.1.1986.

11. We are of the view that, in this regard, it is necessary for the respondents to take an administrative decision in the first instance for which, an additional opportunity is now given to them. In the circumstances, we direct the 2nd respondent to consider the claims of this applicant.

12. Accordingly, we dispose of this OA with direction to the second respondent to take a decision in this regard within a period of 3 months from the date of receipt of this order under intimation to the applicant, keeping in view the observations we have

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made in paras 9 and 10 supra. In case the applicant is aggrieved about the decision taken by the second respondent in this regard, it is open to him to seek redress again, in accordance with law as may be advised. If the prayer of the applicant is allowed, he shall be entitled to all the consequential benefits w.e.f. the date he was appointed to the above post.

13. The OA is disposed of accordingly. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member(J)

N.V. Krishnan

(N.V. Krishnan)
Vice Chairman(A)

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