

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.NO.1208/91

Date of Decision: 25.10.95

Hon'ble Shri N.V. Krishnan, Acting Chairman,

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

Shri Om Prakash,
s/o Shri Suraj Kanwar,
Ferro Printer,
Dte. General of Health Services,
Nirman Bhavan, New Delhi.

Shri G.S. Negi,
s/o Sh. N.S. Negi,
Ferro Printer
Dte. General of Health Services,
Nirman Bhavan,
New Delhi.

Shri B.S. Rawat,
s/o Sh. Kundan Singh,
Ferro Printer,
Dte. General of Health Services,
Nirman Bhavan, New Delhi.

... Applicants

By Advocate: Shri Ajit Pudussery

Vs.

1. Union of India
through the Secretary,
Ministry of Health and F.M.
Nirman Bhavan, New Delhi.
2. The Director General of
Health Services, Nirman Bhavan,
New Delhi.

... Respondents

By Advocate: Shri M.K. Gupta

ORDER

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

This application has been filed by 3 persons
who are working as Ferro Printers with the Directorate
General of Health Services, Respondent No.2, claiming
equality of pay with other Ferro Printers working in
other departments of the Government.

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2. The 3 applicants were appointed as Ferro Printer on 24.2.79, 1.1.1971 and 2.9.1978 respectively. According to them, they are performing the duties assigned to Ferro Printers which are similar in nature to the duties assigned to Ferro Printers in other departments but they have not been given the same pay scale of Rs.260-430 but have instead been fixed in the pay scale of Rs.225-308. The pay scale of the post of Ferro Printer as recommended by the Second Pay Commission was in the pay scale of Rs.110-131. The Third Pay Commission had given certain replacement scales for Ferro Printers in the pay scales of Rs.225-308 and Rs.260-430. The applicants were fixed in the lower scale. According to them, the Govt. had revised the pay scales of Ferro Printers in some departments, for example, Bureau of Public Enterprises, from Rs.225-308 to the scale of Rs.260-430 w.e.f. 7.7.79 suo moto. The applicants also rely on the judgement of this Tribunal in Engineering Drawing Staff Association, CPWD Vs. UOI & others (O.A.No.74/88) dated 28.7.95. In this case after analysing the report of the Work Study team and the recommendations of the Fourth Pay Commission, the Tribunal came to the conclusion that the petitioners who are Ferro Printers in CPWD perform similar duties and have similar responsibilities and functions as Ferro Printers in other departments and hence they were entitled to the higher pay scale of Rs.260-430,

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which was revised to the pay scale of Rs.975-1540 by the Fourth Pay Commission. This relief was, however, restricted from the date of filing of the application i.e. 1.1.88.

3. The learned counsel for the applicants has referred to the Work Study team report of 1973-74 dealing with the pay scales of Ferro Printers in CPWD. Para 3.1 of this report refers to the post of Ferro Printer. It has been observed that the nature of job and duties performed by the Ferro Printers of CPWD and those working in other organisations are similar. It is further observed that although Ferro Printers were performing similar duties, different pay scales have been prescribed in different organisations. It was noted that in some cases the recruitment rules provide for different eligibility conditions. Finally it was recommended that since the job and duties performed by the Ferro Printers of CPWD are similar to those in the Ganga Basin Water Resources Organisation and they have better qualifications, those working in CPWD should be given at least the same scale of pay, namely, Rs.260-430. Shri Ajit Pudussery, learned counsel for the applicants submits that since the applicants also perform similar duties and functions and shoulder responsibilities comparable in nature to Ferro Printers in CPWD and other departments, there is no justification for not giving them the parity of pay scales i.e. Rs.260-430

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from the date of their appointments. He submits that the respondents have merely given a general denial to his specific averments that they are performing similar duties which cannot, therefore, be accepted. He has also drawn our attention to the memorandum issued by Respondent No.2 dated 11.1.80 in which the relevant portion reads as follows:-

"Unless there is revision of pay scale of Ferro-Printers in C.P.W.D. the request of Shri B.S. Rawat, (applicant No.3) for revision of his pay scale from Rs.225-308 to Rs.260-430 cannot be considered."

In another letter issued by the respondents dated 2.4.90, while dealing with the applicant's representation for equal pay, it was stated that the matter was under consideration. Hence Shri Pudussary submits that this application is not barred by limitation and the same may be allowed. He has also urged that taking into account the hazardous nature of the duties of Ferro Printers, they should also be granted risk allowance.

4. Shri M.K. Gupta, learned counsel for the respondents submits that the claim of the applicants for revised pay scales from their dates of appointment i.e. from 1971 - 1979 is beyond the jurisdiction of the Tribunal. The claim for risk allowance is not a consequential relief

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to the main claim, and is barred under Rule 10 of the CAT Procedure Rules, 1987. He submits that the judgement in Engineering Drawing Staff Association, CPWD Vs. UOI deals with Ferro Printers in CPWD and cannot be extended to the applicants who are working in Directorate General of Health Services, as they have not shown that they performed similar type of jobs. He also relies on the observations of the Supreme Court in State of Madhya Pradesh and another Vs. Pramod Bhartiya and others

(1993) (1) SCC 539) that in order to succeed in the plea of equal pay for equal work, the burden is upon the petitioners to establish their right to equal pay, or the plea of discrimination, as the case may be. In that particular case the Supreme Court held that the petitioners had failed to discharge this burden. He submits that when the applicants approached the Delhi High Court, that writ petition was dismissed and they were advised to represent their case before the Fourth Pay Commission. According to him since the Govt. has fixed their pay scales in accordance with the Fourth Pay Commission's recommendations, the application may be dismissed.

5. We have carefully considered the above arguments and record.

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6. Right at the beginning we wish to state that we are conscious of the pronouncements of the Supreme Court that normally claims for equal pay for equal work should be left to expert bodies like Pay Commissions to decide and if they have taken a decision in the matter the Courts/Tribunals should not ordinarily interfere in the same. In Engineering Drawing Staff Association, CPWD Vs. UOI (supra) the Tribunal, after referring to the recommendations of the Fourth Pay Commission came to the conclusion that there is nothing to indicate in the IVth Pay Commission's Report that the claim of the Ferro Printers of the C.P.W.D. and others similarly situate for grant of the same scale of pay as accorded to Ferro Printers in other departments was examined. The Tribunal was of the opinion that the IVth Pay Commission had only provided replacement scales of pay. They have also referred to the note of the Study Group in which it was concluded that the Ferro Printers in the CPWD discharge duties, responsibilities and functions similar to the Ferro Printers in other departments who are enjoying higher scale of pay. In the circumstances, the Tribunal concluded that the petitioners in that case were discharging duties, responsibilities and functions similar to other Ferro Printers in other departments and cannot be

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discriminated against. Hence, the Ferro Printers in CPWD were held to be entitled to the higher scale of Rs.260-430 (pre-revised / Rs.975-1540(Revised)). We, respectfully agree with the reasons given in this decision. This case is fully applicable to the facts in the present case. The respondents have failed to show how the duties performed by the applicants as Ferro Printers in the Directorate of Health Services and those in other departments are materially different in the face of the positive assertion of the applicants that they are similar. Apart from this, in the memo. issued by Respondent No.2 dated 11.1.80, they have admitted that until revision of pay scale of Ferro Printers in CPWD, applicants' request cannot be considered. This implied that the 2nd Respondent felt that the case of the applicants was similar to those of Ferro Printers in the CPWD. If that was so, there is no reason why the benefit of the decision given to Ferro Printers in CPWD by the aforesaid decision should not be extended to Ferro Printers working in the Directorate of Health Services. In this view of the matter, this application succeeds.

7. The objection taken on the ground of limitation is rejected, as the respondents have themselves admitted as late as April, 1990 that the matter was under consideration. In the facts and circumstances of the case, we are satisfied that this is a fit case where the delay in filing this application should be condoned. However,

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because of the long lapse of time and laches, we consider that it would be in the fitness of the case that the monetary relief to be given to the applicants will be from the date of filing of this application i.e. 15th May 1991.

8. Applicants claim for risk allowance cannot be considered in this O.A., it being untenable, having regard to the provisions of Rule 10 of the CAT Procedure Rules, 1987. Therefore, it is open to the applicants to seek relief separately.

9. In the result the application is partly allowed. The respondents are directed to grant the applicant the pay scale of Rs. 975-1540 (revised) (Rs. 260-430 pre-revised) as Ferro Printers w.e.f. 15.5.1991. The arrears due to them shall be paid within two months from the date of receipt of a copy of this order. No costs.

Lakshmi Swaminathan

(SMT. LAKSHMI SWAMINATHAN)
MEMBER (J)

25/10/95

N.V. Krishnan
25.10.95

(N.V. KRISHNAN)
ACTING CHAIRMAN

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