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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

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O.A.NO. 753/91

DATE OF DECISION: 29.10.91.

SH. KISHORI LAL & ANOTHER APPLICANTS.

VERSUS

DELHI ADMINISTRATION & ANOTHER..... RESPONDENTS

CORAM:-

THE HON'BLE MR. T.S. OBEROI, MEMBER(J)

THE HON'BLE MS. USHA SAVARA, MEMBER(A)

COUNSEL FOR THE APPLICANTS : SHRI K. VENKATARAMAN.

COUNSEL FOR THE RESPONDENTS : SHRI M.K. SHARMA

ORAL JUDGEMENT

In this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985, applicants' who were recruited by Respondent No.2, as Plumbers Grade 'D' in the scale of Rs.750-940/-, in May, 1987, have prayed for the following reliefs:-

(i) A declaration be issued to the effect that the applicants are eligible to the pay scale of Rs.950-1400/since their appointment to the post of Plumber.

(ii) A further direction may be issued to the respondents to grant the scale of pay of Rs.950-1400/- to the applicants, as admissible to the post of Plumber as per the recruitment rules followed by Delhi Administration and re-fix their pay in the scale of Rs.950-1400/- with effect from the date of appointment as Plumber.

(iii) A direction to respondents to pay to the applicants the arrears of pay and allowances in the scale of Rs.950-1400/- from the date of their appointment as Plumber with effect from 22.5.1987

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with interest as admissible under the rules alongwith the cost.

(iv) Any other orders/directions this Hon'ble Court may deem fit and proper in the circumstances of the case be passed in favour of the applicants.

Their case further is that though they fulfil all the requisite qualifications for the post of Plumber Grade 'C' in the pay scale of Rs. 950-1400/-, and a representation to this effect has been duly forwarded by their present employer (Respondent No.2), to the Delhi Administration (Respondent No.1), no reply has been sent by the latter, inspite of several reminders thereafter, and therefore, directions be issued to the Delhi Administration for taking appropriate decision in the light of the recommendation made by the Respondent No.2.

2. In the counter filed on behalf of both the respondents, the applicants' prayer has been opposed, primarily on the ground of limitation and also on the ground that the applicants' were recruited for the post of Plumber Grade 'D' in the pay scale of Rs.750-940/- in accordance with the rules then in force with the requisite qualification of Middle Pass, and experience in the job, as against much more technical knowledge requiring passing of the certificate course as Plumber, from a Technical Training Institute, besides two years' practical experience in the line, for Plumbers Grade 'C', as per recruitment rules at page 30 of the paper-book. It was also averred that merely because the nomenclature of the post for which the applicants were recruited happened to be the same as that in Grade 'C', it would not entitle the applicants' to the pay of grade 'C' Plumbers, and thus, no violation of Article 39(d) of the Constitution of India, was involved

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in this case, there being two distinct grades 'C' & 'D'. It was further averred that no matter, they fulfil the requisite qualifications for the post of Plumber Grade 'C', they are not entitled to claim the upgradation of their posts, from the one for which they were recruited, to the next grade.

3. In the rejoinder filed on behalf of the applicants, they reiterated their earlier request made in the OA, besides adding that a decision ought to have been taken by Respondent No.1 with regard to their representation, duly recommended and forwarded by Respondent No.2.

4. Arguments were heard, as addressed by the learned counsel for both the parties.

5. The learned counsel for the respondents, while opposing the prayer in the OA, pleaded that the application is barred by limitation, as the cause of action in this case arose in May, 1987, and their representation in this regard, was forwarded as far back as 7.1.1988 (page 24 and 25 of the paper-book), and though further representations were made by them, on 28.5.90, 16.11.90 and 3.1.91 (page 26, 27, 28), repeated representations will not extend the bar of limitation as held by the Hon'ble Supreme Court (AIR 1990 (SC) 10). The learned counsel for the respondents also pleaded that the prayer of the applicants as per the present application, if taken as it is, boils down to the plea for higher pay scale of Rs.950-1400/- from the date of the initial appointment of the applicants in the 'D' grade of the post of Plumbers, in the scale of Rs.750-940/-, which is, by no means, tenable, being too belated.

6. We have also heard the learned counsel for the applicants who vehemently pleaded that the applicants

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having all the requisite qualifications for the post of Plumber Grade 'C' for which even Respondent No.2 had recommended their case, they deserve sympathetic consideration and the technical ground of limitation should not be allowed to stand in the way. the learned counsel for the applicants also pleaded that the nomenclature of the two posts being the same, the duties performed by the applicants as well as those in other hospitals, employed in Grade 'C' posts of Plumbers, are essentially the same, and hence, the applicants be also allowed the grade pay of Rs.950-1400/- as admissible to Grade 'C' Plumbers, on the basis of the principle of equal pay for equal work.

7. We have given our careful consideration to the facts and circumstances of the case together with the rival contentions, as briefly discussed above. Taking up the question of limitation first, as held in the citation referred to by the learned counsel for the respondents, we are of the view that even though repeated representations were made by the applicants, as referred to by their learned counsel, it may not be possible to waive the bar of limitation as prayed for by the applicants. As regards the submissions of the learned counsel for the applicants that the nature of duties performed by Grade 'C' and Grade 'D' Plumbers are the same, suffice it to say that in the absence of any cogent material adduced, on record, it is not possible to accept the bald statement merely on the basis of assumptions, particularly in view of the requirement of more technical skill and knowledge, in case of Group 'C' Plumbers, as referred to in an earlier paragraph of this judgement.

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8. In result, the present application is declined. However, in case the applicants choose to make a fresh application, the respondents may look into and decide the same, in accordance with the rules and law on the subject. In the circumstances of the case, the parties are left to bear their own costs.

Usha Savara
(USHA SAVARA)
MEMBER(A)

T.S. Oberoi
(T.S. OBEROI)
MEMBER(J)

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