

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI**

OA No 2179/2004

New Delhi this the 10<sup>th</sup> day of May, 2007

**Hon'ble Mr. Justice V.K. Bali, Chairman  
Hon'ble Mr. V.K. Agnihotri, Member (A)**

Jai Kishan, Steno (Gr. 1),  
P.A. to Administrator,  
A & U Tibbia College, Karol Bagh,  
Delhi-110005

..Applicant

(By Advocate Shri K.K. Sharma )

**VERSUS**

Government of NCT of Delhi - Through

1. Chief Secretary,  
Delhi Secretariat, I.P. Estate,  
I.T.O. New Delhi.
2. Principal Secretary (Health & F.W),  
Delhi Secretariat, I.P. Estate,  
I.T.O., New Delhi.
3. HOD / Administrator (TC),  
A & U Tibbia College,  
Karol Bagh, New Delhi- 110005

..Respondents

( By Advocate Shri T.D. Yadav proxy for Shri Vijay Pandita )

**ORDER (ORAL)**

**Justice V.K. Bali :**

Shri Jai Kishan, applicant herein, erstwhile working in A & U Tibbia College which was taken over by the Government of Delhi, has filed this application under Section 19 of the Administrative Tribunals Act, 1985 seeking to set aside order dated 17.8.2004 and in consequence of setting aside the order aforesaid, to direct the respondents to revise his pay scale of Steno (Grade-I) from Rs.1640-2900 (pre-revised) to Rs.2000-3200 (pre-revised) w.e.f. 19.12.1995 at par with Steno (Grade-I) in the pay scale of Rs.1640-2900 (pre-revised) who have been given pay scale of Rs.2000-3200, working in the Delhi Government in terms of the orders of Government of India dated 26.10.1987 based upon the

recommendations of the 4<sup>th</sup> Central Pay Commission, which stands revised to Rs.6500-10500, with consequential benefits.

2. The brief facts, as projected in the application, reveal that applicant joined A&U Tibbia College on 5.09.1963 and w.e.f. 1.07.1964 he worked as Accounts-cum-General Clerk in the scale of Rs.110-180. He was promoted to the post of Steno-typist in the pay scale of Rs.110-180 plus Rs.20/- as special pay w.e.f. 15.7.1972. Later on, the post of Steno-typist was designated as Stenographer Gr. III in the pay scale of Rs.130-300. Applicant, as per Recruitment Rules duly notified, was further promoted to the post of Steno. Grade- I in the pay scale of Rs.1640-2900 ( revised Rs.5500-9000), on regular basis by a duly constituted DPC, with duties and responsibilities being the same as the duties and responsibilities attached with the post of Stenographer (Gr.1) in other Departments of the Delhi Administration, vide order dated 19.12.1995. Consequent upon taking over of the A& U Tibbia College and Allied Units by the Delhi Government under the Delhi Tibbia College (Take Over) Act,1997, the applicant became an employee of Govt. of NCT of Delhi. Applicant made a representation on 21.01. 2004 which was followed by reminders, requesting therein to revise his pay scale at par with his counter-parts, who were initially appointed by Delhi Administration and were holding the same posts. However, representation made by the applicant was rejected, vide order dated 17.8.2004, hence the present OA. Applicant has retired on superannuation on 30.11.12004 during the pendency of this OA.

3. Pursuant to notice issued by this Tribunal, respondents have entered appearance and contested the cause of the applicant stating that application needs to be dismissed, on the ground of delay and laches because applicant on his own has admitted that he had filed first representation on 12.6.1996 followed by reminders which cannot extend any help to the applicant in the matter of limitation. On merits, it has been contended that prior to 1.5.1998, Tibbia College

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was managed by an independent Board, known as Tibbia College Board. As per Govt. of NCT of Delhi, H&FW Notification dated 23.8.2001, the employees of A&U Tibbia College as per terms and conditions of taking over by the Government shall constitute a separate class/ group of employees and shall not be equated or merged with other employees of the Govt. of Delhi, as recruitment rules and method of recruitment and duties and responsibilities are not the same. Applicant has filed rejoinder, in which the plea taken by respondents on merits that the recruitment rules for Tibbia College and recruitment rules for Govt. of NCT of Delhi for the post of Stenographer Grade 1 are different, has been replied by stating that from the recruitment rules it cannot be made out that the duties and responsibilities of Stenographer Grade-I of Tibbia College, having the same pay scale are less onerous than the duties and responsibilities of the post of Stenographer Grade I in Delhi Government. The specific plea raised in the counter reply that as per terms and conditions of take over the employees of A&U Tibbia College shall constitute a separate class/group of employees and shall not be equated or merged with the employees of Government of Delhi, has not been controverted.

4. We have heard the learned counsel representing the parties and with their assistance, examined the records of the case. We are of the firm view that conditions of service of employees of an organisation which may have been taken over by the Government may not necessarily be the same as those of the employees of the Government. The conditions of take over would determine the status of employees of the institution which has been taken over vis-à-vis the conditions of service of the Government employees already in position. In the counter affidavit, it has been clearly stated that employees of Tibbia College constitute a separate class/group and shall not be equated with the other employees of the Government. The provisions of taking over have not been challenged. There does not appear to be any good ground to grant the same

scale of pay to Stenographers Grade-I of Tibbia College which may be admissible to the employees on the said post already working with the Government of Delhi. Confronted with this position, counsel representing the applicant places reliance on notification dated 4.12.2006 by which Tibbia College (Takeover) (Amendment) Act, 2006 came into force. Para 7 thereof reads, thus:

"1. xxx xxx xxxxx

2. Substitution of new section for section 7.- In the Delhi Tibbia College (Takeover) Act, 1997 ( Delhi Act No.6 of 1998), for section 7, the following shall be substituted, namely:-

"7.Appointment of Employees of the College as employees of the Government as a part of the initial substitution.(1) The Government may, having regard to the requirements of the College, appoint an employee who has been immediately before the appointed day employed in the College, as an employee of the Government as a part of the initial constitution.

(2) The pay of an employee of the College appointed as an employee of the Government as on the appointed day, shall be protected by granting the difference in pay under the Government and that drawn by the individual while in service of the College, as personal to individual to be absorbed against future increments".

5. Having given our consideration to the contentions of the learned counsel as noted above, we, however, find that the notification dated 4.12.2006 is not applicable in the case of an employee who may be getting a lesser pay scale than the one admissible to the employees of the Government of Delhi. On the other hand, sub-para (2) of para 7 on which reliance has been placed would show that the same would be applicable to an employee who may be getting more pay than admissible to an employee of the Delhi Government. His pay is to be protected and the same is to be personal to him. The reliance placed upon sub-para (2) of para 7 is wholly misplaced.

6. Confronted with the position aforesaid, the counsel then relies upon para 4.6 of the rejoinder to show that this is a case of discrimination with regard to

fixation of pay of the employees who were taken over along with the applicant by the Delhi Government. Para 4.6 relied upon by the counsel reads, thus:

"Wrong and hence denied, particularly in the face of liberally granting pay scales to other group of employees of the T.C. throwing to the wind the term and condition of the Take Over Act that ' they shall constitute a separate class' but applying the same only in the case of the applicant and denying him the pay scale as applicable to his counter parts working in the Delhi Government. The contents of the corresponding para of the OA are correct and being reiterate/re-affirmed.

7. We are unable to accept the contention of the learned counsel as noted above. A reading of para 4.6 of the rejoinder would not show that the applicant alone was not equated in the matter of pay scale with counter-parts already working in the Delhi Government. The plea rather appears to be that similar pay scales were given to other group of employees. The averments made in the para are not clear nor the same give any clue on facts that may show violation of Article 14 of the Constitution.

8. There is no merit in the present OA and the same is thus dismissed, leaving, however, the parties to bear their own costs.

  
( V.K.Agnihotri )  
Member (A)

  
( V.K. Bali )  
Chairman

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