

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 17/1992

26-8-97

(22)

New Delhi this the 26th Day of 1997

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)
Hon'ble Shri S.P. Biswas, Member (A)

1. Dr. V.P. Shukla,
son of Shri Yamuna Prasad Shukla,
Fertilizer Inspector,
Central Fertilizer Quality Control & Training
Institute
N.H. IV, Faridabad,
Resident of 74, Type II, N.H. IV,
Faridabad.
2. Shri U.R. Pal,
son of Shri K.N. Pal.
Fertilizer Inspector,
Central Fertilizer Quality Control and Training
Institute.,
N.H. IV, Faridabad,
Resident of 74, Type II, N.H. IV,
Faridabad.
3. Shri Rajendra Singh,
Son of Shri M. Singh,
Fertilizer Inspector,
Central Fertilizer Quality Control & Training
Institute,
N.H. IV, Faridabad,
Resident of C/o 74 Type II,
N.H. IV, Faridabad.
4. Shri D. Singh,
Son of Shri V.B. Singh,
Fertilizer Inspector,
Central Fertilizer Quality Control and Training
Institute,
N.H. IV, Faridabad,
Resident of C/o 74 Type II, N.H. IV,
Faridabad.
5. Shri R.P. Singh,
Son of Shri R. Singh,
Fertilizer Inspector,
Central Fertilizer Quality Control & Training
Institute,
N.H. IV, Faridabad,
Resident of mC/o 74 Type II, N.H. IV,
Faridabad.

All the applicants through Applicant No. 1
Dr. V.P. Shukla, Fertilizer Inspector,
Central Fertilizer Quality Control & Training
Institute, N.H. IV, Faridabad,
Resident of 734, Type II, N.H. IV,
Faridabad.

(By Advocate: Shri G.D. Gupta)

-Versus-



1. Union of India through
The Secretary (Agriculture)
Department of Agriculture and Cooperation,
Ministry of Agriculture,
Krishi Bhawan,
New Delhi-110 001.
2. The Director,
Central Fertilizer Quality Control and Training
Institute,
N.H. IV, Faridabad. Respondents

(By Advocate: Shri Madhav Panikar)

ORDER

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)

The petitioner in this case was appointed as Fertilizer Inspector in the scale of Rs. 425-700 in the Central Fertilizer Quality Control Training Institute, Department of Agriculture & Cooperation, Ministry of Agriculture at Faridabad in November 1993. The appointment of the petitioner to the said post was in accordance with the recruitment rules issued on 15.4.1993 which in fact was an amendment to the Central Fertilizer Control Laboratory, Faridabad (Group 'C' and Group 'D' posts) recruitment rules of 1977.

2. After duly joining the post, it was noticed by the petitioner that the three senior persons who have been appointed earlier under the pre-amended recruitment rules of 1977 were drawing the pay in the scale of Rs. 550-900. The claim of the petitioner, therefore, is that since those three persons as well as the petitioner are working with service conditions which are almost identical and the duties attached to both the amended or unamended rules were also identical and the petitioner continue to discharge the



duties as before even after amendment, the principal of equal pay for equal work is to be made applicable to the case of the petitioner.

3. The respondents, on the other hand, submitted that the appointment of the petitioner was under the amended recruitment rules wherein the postg of Fertilizer Inspector with reduced qualification viz., B.Sc. (Agriculture)/B.Sc. (Chemistry) with two years experience and with reduced pay scale, is totally different in character with that of three senior persons who have been appointed under the unamended rules. The respondents vehemently disputed that there is any discrimination between the petitioners who have been subsequently appointed under the rules prevalent at the time of their appointment with that of their seniors who had been appointed under the pre-existing rules. It is not the case of the petitioners that the pre-existing rules continue to be in force rather the respondents had to continue to pay to those three persons in the scale applicable to pre-amended rules for the reasons that their appointments were made under the said rules and their pay as well, as they continue to be the Fertilizer Inspector, could not be reduced, only because of the subsequent amendment to the recruitment rules. Under these circumstances what the respondents have done is only to protect the pay of those three persons, since they are not in a position to reduce their pay in accordance with the rules.

4. It is also an admitted fact that the change in the recruitment rules took place due to reorganization in the respondent department. Accordingly, seven erstwhile posts



of Fertilizer Inspectors were down-graded from the scale of Rs. 550-900 to Rs. 425-700 but the then existing incumbents of these posts were allowed to retain the scale of Rs. 550-900 as personal to them. In addition to these three posts, eleven additional posts of Fertilizer Inspectors in the pay scale of Rs. 425-700 were also created. Thus, the higher pay scale and payment made to those three persons, were personal to them and the petitioner herein are claiming the same on the basis of equal pay for equal work. The respondents further submitted that the reorganisation was duly approved and it was implemented and the petitioner has not challenged the legality of the said organisation, in the absence of which, the pay granted to those three persons cannot be made available to the petitioners on the ground of equal pay for equal work.

5. Moreover, the respondents stated that those three persons were given higher payment on the basis of the pre-amended recruitment rules and according to the pre-existed scale of Rs. 550-900 and such scale of pay for Fertilizers Inspectors ceased to exist after 18 years and as such any favourable order by raising the scale of pay of the applicants, on the basis of the fact that those three persons are now paid under the non-existent scale of Rs. 550-900, ultimately would amount to creation or revival of a non-existing pay scale by the orders of this Court. That, we are afraid is not within our jurisdiction.

6. The counsel for the petitioner also pointed out that the post of Inspector in the Central Excise and Customs as well as the Income Tax Department, whose essential educational qualification is graduation and their pay scale

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prior to 1.1.1986 was Rs. 425-800. On the basis of the decision of Jodhpur Bench of this Tribunal, dated 18.4.1987, those Inspectors were directed to be paid in accordance with pre-revised scale of Rs. 500-900 with effect from 1.1.1980. The respondents had implemented the said orders and revised the scales of those Inspectors to the pre-revised scale of Rs. 500-900 and thereafter the benefit of the Fourth Pay Commission was also given to them and instead of granting the revised pay scale of Rs. 1400-2300, those Inspectors were granted the revised pay scale of Rs. 1640-2900. It was also argued that the responsibilities and duties of Fertilizer Inspectors are equally onerous as that of those mentioned above, and the powers given to both the said Inspectors are also equivalent. The petitioner, therefore, alleged that there is discrimination in the hands of the respondents against the petitioner vis-a-vis those Inspectors.

7. We are unable to accept this contention and do not see any kind of equality between the petitioner inspectors with that of the Inspectors of Central Excise and Customs as well as Income Tax Department. The only one thing common, in our estimate, is the term "Inspector", but in substance, the petitioner Inspector are discharging totally different kind of duties and functions than that of the Inspectors in the Central Excise and Customs as well as in the Income Tax Department.

8. The learned counsel for the petitioner further relied upon a series of decisions of the Hon'ble Supreme Court to bring home the claim that the petitioners are entitled to equal pay for equal work. As stated above, in

the absence of any devious discrimination between the petitioners vis-a-vis those three persons referred to above who were drawing the pay in the pay scale of Rs. 500-900 and also between the petitioners as well as the Inspectors of Central Excise and Customs and Income Tax Department, we are unable to proceed further and see whether the petitioners can get the benefit of Article 39 (d) of the Constitution of India. Since our finding is that the petitioner has not made out a case of discrimination in the first instance, in the present case, the said provision of the Constitution will not have any application. In the premises this OA is dismissed as devoid of any merit and no order as to costs.

(S.P. Biswas)
Member(A)

(Dr. Jose P. Verghese)
Vice Chairman (J)

Mittal