

Central Administrative Tribunal
Principal Bench
New Delhi

D.A.No.2759/92

This the 1st day of December, 1997.

(S)

HON'BLE DR. JOSE P. VERGHESE, VICE CHAIRMAN (J)

HON'BLE MR. N. SAHU, MEMBER (A).

All India Health Visitors (Railways)
Association
18/1 Railway Colony
Kishan Ganj
Delhi-110007.

Through

1. General Secretary
Smt. Santosh Kumari Saini

2. Smt. Aruna Pillai
Sr. Health Visitor
Northern Railway
28/21, Kishan Ganj
New Delhi.

..... Applicants.

(By Advocate Sh. B.S. Mainee)

Versus

Union of India : Through

1. The Secretary
Ministry of Railways
Railway Board, Rail Bhawan
New Delhi

3. The Divisional Railway

2. The General Manager
Northern Railway
State Entry Road
New Delhi.

Manager,
Northern Railway, State
Entry Road, New Delhi.

..... Respondents

(By Advocate Sh. P.S. Mahendru)

ORDER (Oral)

By Hon'ble Dr. Jose P. Verghese, VC (J).

This OA has been filed on behalf of All India Health Visitors (Railways) Association, which according to the applicants is in all 138 members

which
out of 33 are working in the Northern Railways.

2. The claim of the applicants is that the applicants having worked in the Railways for the last about 30 years ~~no~~ ^{is} promotional avenues to advance ~~provided~~ ⁱⁿ their career. The learned counsel for the applicants submitted that some channel of promotion for advancement of their career has been declared to be a right in the decision of the Hon'ble Supreme Court in C.S.I.R. and another Vs. K.G.S.Bhatt and another which are reproduced below:-

" He was, however, left without opportunity for promotion for about twenty years. This is indeed a sad commentary on the appellant's management. It is often said and indeed, adroitly, an organisation public or private does not "hire a hand" but engages or employs a whole man. The person is recruited by an organisation not just for a job, but for a whole career. One must, therefore, be given an opportunity to advance. This is the oldest and most important feature of the free enterprise system. The opportunity for advancement is a requirement for progress of any organisation. It is an incentive for personnel development as well. Every management must provide realistic opportunities for promising employees to move upward. 'The organisation that fails to develop a satisfactory procedure for promotion is bound to pay a severe penalty in terms of administrative costs, misallocation of personnel, low morale, and ineffectual performance, among both non-managerial employees and their supervisors.' There cannot be any modern management much less any career planning, manpower development, management development etc. which is not related to a system."

(ATR 1989 Vol.II SC 341).

3. Despite several opportunities no reply was filed by the respondents after notice and we find that the right to file reply has been forfeited. Yet, in the interest of justice the reply as well as rejoinder filed by the p-

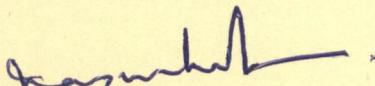
filed by the parties are taken for consideration.

4. In the reply it was stated that as per recommendation of the 3rd Pay Commission the Govt. of India namely Ministry of Railways in consultation with the Ministry of Finance decided to prescribe the scales of Rs.330-560 for the Lady Health Visitors and the same is being paid ever since to the applicant. It was further submitted that after going through various representations and records of the Advisory Committee, the respondents decided to introduce the upgradation of this cadre of Family Welfare Establishment on the Railways. Accordingly, Lady Health Visitor's scale of pay was upgraded from grade Rs.1200-2040 to 1400-2300 and out of 33 posts 21 posts have been upgraded in the above said manner.

5. Learned counsel for the applicant on the other hand submitted that even though the respondents have been stated that the upgradation in the same manner has not been followed and the same has not been materialised. In the circumstances, we direct the respondents to implement the said scheme of upgradation to the 21 posts out of 33 existing in the cadre in the Railways and upgraded them to the scale of Rs.1400-2300 w.e.f. the date the said scheme has been implemented namely with effect from the recommendation of the 3rd Pay Commission was accepted. The benefit of the prescribed posts initially shall be given to the senior most among the applicants. The benefit shall be given to the remaining persons in the cadre in accordance with the same scheme of upgradation applicable to all the similarly placed persons provided the same has ^{not} already been implemented and payment may accordingly.

6. With respect to the career advancement and referring to the recommendation of the 4th pay Commission is concerned, the same was the subject matter of one of this Tribunal's judgment. The respondents are directed to refer the case of the petitioners for appropriate authority by which some promotional channel be created for them or adopt any such other method and make an effort to find a solution within three months from the date of receipt of a copy of this order. The decision thereof shall be communicated to the petitioners within a reasonable time after an appropriate decision is taken by referring the matter to the expert body or such other similar bodies existing in the Govt. of India. With this, the O.A. is disposed of. No order as to costs.

(8)



(N. SAHU)
M(A)


(DR. JOSE P. VERGHESE)
VC(J)

RB.