

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

(A)

D.A./XXXXX No. 1153/93 /19 Decided on: 13.2.98

V.K. Sharma

..... APPLICANT(S)

(By Shri B.S. Charya)

Advocate)

VERSUS

Commissioner of Industries, NCT, Delhi. RESPONDENTS  
and others

(By Shri Rajinder Pandita Advocate)

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THE HON'BLE SHRI S.R. ADIGE, VICE CHAIRMAN (A)

THE HON'BLE SHRI/SMT./DR. LAKSHMI SUJAMINATHAN, MEMBER (J)

1. To be referred to the Reporter or not? Yes

2. Whether to be circulated to other Benches  
of the Tribunal? No

*Adige*  
(S.R. ADIGE)  
Vice Chairman (A)

(5)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.1153/93

New Delhi: this the 13 February, 1998.

HON'BLE MR.S.R.ADIGE, VICE CHAIRMAN(A).

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER(C)

Shri V.K.Sharma ,

S/o Shri R.K.Sharma,  
R/o H.No.7, Pocket D-11,  
Sector 8, Rohini,  
New Delhi

.....Applicant.

(By Advocate: Shri B.S.Charya )

Versus

1. The Commissioner of Industries,  
QPO Building, Kashmere Gate,  
Delhi.

2. The Lt. Governor,  
Delhi Administration,  
Raj Niwas,  
Delhi.

3. Union of India,  
Ministry of Home Affairs,  
Govt. of India,  
North Block,  
New Delhi  
(through its Secretary)

4. The Secretary,  
Ministry of Industry,  
Udyog Bhawan,  
New Delhi

..... Respondents.

- (By Advocate: Shri Rajendra Pandita for R-1 & 2  
and none for R-3 and 4).

JUDGMENT

BY HON'BLE MR.S.R.ADIGE VICE CHAIRMAN(A)

Applicant who is Litigation Assistant  
(Rs.1400-2300) in the office of Commissioner of  
Industries, Govt. of NCT of Delhi, seeks upgradation  
of his scale of pay to Rs.1640-2900 which is the  
scale of pay for Legal Assistants in other  
Departments of Govt of NCT of Delhi on the  
principle of 'equal pay for equal work'.

16

2. We have heard applicant's counsel Shri Charya and counsel for Respondents No.1 and 2. None appeared for Respondents No.3 and 4 and no reply has been filed by them either.

3. We note from letter dated 4.4.91 from the Office of Commissioner of Industries (Respondent No.1) addressed to the Office of Respondent No.4 (Annexure- P 2) that Respondent No.1 themselves admit that applicant is discharging the same duties and responsibilities which Legal Assistants in various other Departments of Govt. of NCT of Delhi are discharging, and had recommended the case for upgradation of the pay scale of the post held by applicant to Rs.1640-2900, but the same was turned down by Office of Respondent No.4 vide Memo dated 22.9.93 (Annexure-P-4) on the ground that upgradation of post amounts to creation of post and under the existing guidelines there is a bar on all proposals regarding creation of post.

4. A very similar situation was faced by the CAT Calcutta Bench in OA No.505/87 P.K.Bal Vs. UOI & Ors. In that case the applicant who was a photo printer in the Office of Controller of Patents and Designs, GOI had claimed the higher pay scale of Rs.425-700 admissible to his counterparts in other offices of his department. In that case also the applicants' claim had been recommended for revision of pay scale but was turned down by the Integrated Finance Wing of the Ministry of Industry on the ground that it amounted to creation of post which was banned. The CAT Calcutta Bench in its judgment dated

1

(17)

16.5.89 (ATR 1991(1) CAT 310) allowed the OA,  
holding thus:

" The case was argued on the short point that equal pay for equal work is a concept on which there is established case law. When the respondents have conceded that the applicant is doing the same and similar type of work as those of his counterparts though with a different designation in other Branch Offices of the same Department, it is patently unfair to deny him the benefit of the same pay scale which is enjoyed by his counterparts in other offices of the same Department. The learned Sr. Standing Counsel for the respondents, Shri D.N. Das, appearing on behalf of the respondents, conceded that the work performed by the applicant was same/similar to that performed by his counterparts. He also stated that a recommendation had been made by the respondents, but in view of it being turned down by the Integrated Finance, the applicant could not be given the same scale."

5. Nothing has been shown to us to suggest that the aforesaid judgment has been stayed, modified or set aside and manifestly its ratio extracted above is fully applicable to the facts and circumstances of the present case, because respondents have conceded that applicant is performing the same duties and responsibilities as Legal Assistants working in other departments of Govt. of NCT of Delhi and Respondents have nowhere contended that the educational/ experience qualifications, or mode of recruitment are any different.

6. During hearing Shri Pandita asserted that applicants' claim was barred by limitation, but the in M.R. Gupta Vs. UOI & Ors. 1995(5) SCALE<sup>29</sup> Hon'ble Supreme Court has held that matter regarding pay fixation gives rise to a continuing cause of action. Hence this contention is rejected.

(8)

7. In the facts and circumstances, noticed above therefore this OA succeeds and is allowed. Respondents are directed to allow the scale of Rs.1640-2900 to the post held by applicant and refix his pay in the aforesaid scale in accordance with rules and instructions, with consequential benefits including arrears which shall be admissible to applicant w.e.f. 24.5.92 which is exactly 1 year prior to the date he filed this OA. These directions should be implemented within 3 months from the date of receipt of a copy of this judgment. No costs.

Lakshmi

( MRS. LAKSHMI SWAMINATHAN )  
MEMBER(J)

M. J. Adige  
( S.R. ADIGE )  
VICE CHAIRMAN (A).

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