

Central Administrative Tribunal
Principal Bench

O.A. No. 1280 of 1993
M.A. No. 1530 of 1999

New Delhi, dated this the 29 May, 2000

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. KULDIP SINGH, MEMBER (J)

1. Shri Vipin Kumar Jain,
S/o Shri A.R. Jain,
R/o C/o Shri Mander Dass Jain,
X/2487, Gali No. 70,
Raghuwar Pura No.2,
Delhi-110031.
2. Shri M.K. Single,
Secretary,
Diploma Engineers Association
R/o E-19, Maharaja Ranjit Singh Road,
Adarsh Nagar,
Delhi. Applicant

(By Advocate: Shri K.B.S. Rajan)

Versus

Union of India through
the Secretary,
Ministry of Defence,
South Block,
New Delhi. Respondents

(By Advocate: Shri V.S.R. Krishna)

ORDER

MR. S.R. ADIGE, VC (A)

This O.A. originally came up for hearing on 4.12.98 on that date none appeared on behalf of applicants. Shri V.S.R. Krishna appeared on behalf of Respondents. After hearing Shri Krishna and perusing the materials on record the O.A. was dismissed as being without merit.

2. R.A. No. 49/99 praying for review of the aforesaid order dated 4.12.98 was likewise dismissed by order dated 8.3.99.

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3. Thereafter applicant approached the Delhi High Court in CWP No. 2594/99. That CWP came up for hearing on 30.4.99, On that date applicant's counsel sought permission to withdraw the petition with liberty to file application before C.A.T. He stated that along with the application he would like to place certain documents which he could not file with his previous review application and which were relevant for determination of controversy between the parties. By order dated 30.4.99 the CWP was dismissed as withdrawn.

4. Thereafter applicant file M.A. No. 1530/99 on which notices were issued to respondents.

5. We have heard applicants' counsel Shri Rajan and Respondents' counsel Shri Krishna on the O.A. as well the M.A.

6. It is not denied that applicants have been recruited by Respondents, against posts which in the scale of Rs.1320-2040, but they are seeking the pay scale of Rs.1400-2300 on the ground that they are diploma holders, and diploma holders in other Departments of Government of India are drawing the scale of Rs.1400-2300.

7. For a claim for equal pay for equal work to succeed it is incumbent upon applicants to establish that the duties, functions and responsibilities of the posts to which they have been

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appointed and which carries the scale of Rs.1320-2040 are similar in all respects to posts carrying the scale of Rs.1400-2300 which applicants claim are manned by diploma holders in other departments of Government. Merely because Respondents have engaged diploma holders against posts in the scale of Rs.1320-2040, in which the minimum educational qualifications are ITI certificate, or even 10+2 certificate, does not automatically entitle applicants to a higher scale of pay.

8. In State of M.P. Vs. P.K. Bhartiya & Others JT 1992 (5) SC 683 the Hon'ble Supreme Court has held that equal pay would significantly depend upon whether similiar duties, functions and responsibilities are being discharged. Their Lordships went on to state that it is not enough to say that the qualifications are the same nor is it enough to say that the service conditions are similar. What is more important and crucial is whether they discharge similar duties, functions and responsibilities.

9. As it is not the case of the applicants that while holding the posts in the scale of Rs.1320-2040 to which they have appointed, they are discharging similar duties, functions and responsibilities as are attached to posts carrying the higher scale of Rs.1400-2300; we see no reason to deviate from the Tribunal's order dated 4.12.98 dismissing the O.A., and the rulings relied upon by Shri Rajan annexed with his written submissions do **not advance applicants' claims.**

11. The aforesaid order dated 4.12.98 is, therefore, reiterated and the O.A. along with M.A. No. 1530/99 is dismissed. No costs.

Kuldeep Singh
(Kuldeep Singh)
Member (J)

Surjinder
(S.R. Adige)
Vice Chairman (A)

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