

13

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI

O.A. No. 219 of 1993 decided on 21.9.1998.

Name of Applicant : Shri S.R.Sharma

By Advocate : Shri P.T.S.Murthy

Versus

Name of respondent/s Union of India & others

By Advocate : None

Corum:

Hon'ble Mr. N. Sahu, Member (Admnv)
Hon'ble Dr. A.Vedavalli, Member (J)

1. To be referred to the reporter - Yes/No

2. Whether to be circulated to the other Benches of the Tribunal. - Yes/No

N. Sahu
(N. Sahu)
Member (Admnv)

14

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.219 of 1993

New Delhi, this the 21st day of September, 1998

Hon'ble Mr. N. Sahu, Member(Admnv)
Hon'ble Dr. A. Vedavalli, Member(J)

Shri S.R.Sharma, S/o late Shri Harnam
Das Pandit, C-320, Vikaspuri, New
Delhi-18

-APPLICANT

(By Advocate Shri P.T.S. Murthy)

Versus

1. Union of India through Secretary, Ministry of Labour, Shram Shakthi Bhavan, Rafi Marg, New Delhi.
2. Director General of Employment & Training, (Directorate of Employment), 3/10 Jam Nagar House, New Delhi.
3. Director, Central Institute for Research & Training in Employment Services, Pusa Road, New Delhi-12. -RESPONDENTS
(By Advocate -None)

O R D E R

By Mr. N. Sahu, Member(Admnv) -

The applicant joined the Central Institute for Research and Training in Employment Services (hereinafter referred to as "the Institute") as Hostel Superintendent-cum-Care Taker on 3.12.1968. He retired from service on 28.2.1994. The reliefs sought for in this O.A. are extracted hereunder -

- (i) That the respondents be directed to revise the pay scale of the applicant to Rs.1640-60-2600- EB-75-2900 so as to bring it on par with the pay scale of the Asstt. Wardens in the P.G. Hostel of Indian Agricultural Research Institute which is situated in the same Pusa compound within a distance of 100 yds. or on par with the pay scales of other Hostel Supdtts./Warden of the same Directorate under the same Ministry by way of fulfilling the doctrine of equal pay for equal work.
- (ii) That the applicant be provided with rent free accommodation as provided to similar Hostel Supdtts. under the same Directorate under the same Ministry."

2. It is stated that the scale of pay of the applicant as Hostel Superintendent-cum Care Taker is Rs.1400-2300 while the scale of pay of the Hostel Superintendent of the Industrial Training Institute (in short 'ITI'), Pusa is Rs. 1400-2600 w.e.f. 1.1.1986. It is stated that the duties of both the posts are similar viz. allotting accommodation to hostel students, conducting annual sports, and attend the day to day activities. It is also submitted that the scale of pay of Assistant Warden of the Post-graduate Hostel in the Indian Agricultural Research Institute (in short 'IARI') Pusa is Rs.1640-2900/- and the duties attached to the job of Assistant Warden is similar to the duties of Hostel Superintendent. It is further stated that apart from the hostels at the Pusa Complex, the respondents run a chain of hostels attached throughout the country wherein the pay scale of the Hostel Superintendent is Rs.1640-2600. He cited 7 such hostels. Under these circumstances he has claimed parity of pay scales on the principle of equal pay for equal work with the Hostel Superintendent of ITI Pusa and the Hostel Superintendent of all the hostels in the country run by the respondents, as well as with the Assistant Warden of the IARI.

3. In the counter affidavit the respondents state that the relief claimed in another Original Application (in short 'OA') filed by the applicant himself bearing OA No.2402/92 is exactly similar to the reliefs claimed in this OA. We have compared the

reliefs in both the OAs and we find that the reliefs are identical and verbatim, and therefore, this OA has become unnecessary. We are informed that OA 2402/92 is pending disposal.

4. The learned counsel for the applicant contends that the relief sought for in OA 2402/92 is for bringing the post of Hostel Superintendent in the main stream and for certain other service benefits, whereas the present OA is in respect of equal pay for equal work. The respondents state that the nature of work of an Assistant Warden and a Hostel Superintendent differ because the applicant's work consists of looking after trainee officers during their training program; and the number of trainees is very small and it never went beyond 25 whereas for Assistant Wardens of IARI, the students stay in the hostel throughout the year. Their problems are much different than the problems faced by the applicant for trainees as a Hostel Superintendent. It is stated that the Institute's hostel are run by the Directorate of Training, Ministry of Labour and the pay scales have been fixed by the Ministry of Labour. The administrative control and command structure for an Assistant Warden are altogether different. Basically it is stated that the applicant looked after the trainee officers whose stay is for a short period and the training does not recur, in other words, there are substantial gaps in training. In the course of arguments we required the counsel to place before us the rules of recruitment for the

for W

:: 4 ::

Hostel Superintendent as well as the Assistant Warden. In spite of several opportunities, the learned counsel could not furnish any such rules.

5. It is laid down by the Hon'ble Supreme Court in the cases of State of Mysore Vs. P. Narasing Rao, AIR 1968 SC 349 and Mohammad Shujat Ali Vs. Union of India, (1975) 3 SCC 76 that any differentiation made in the matter of pay scales or even for that matter with reference to further chances of promotion between graduate and non-graduate employees would not fall foul of Articles 14 and 16 of the Constitution. It was held in the case of State of Tamil Nadu Vs. M.R. Alagappan, (1997) 4 SCC 401 that in spite of substantial similarity in duties and responsibilities and interchangeability of posts the doctrine of equal pay for equal work is not necessarily attracted. There may be other distinguishing features like educational qualifications for appointment, mode of recruitment, status, special assignments entrusted to one category only, different seniority lists, and different streams of promotion structure. In the case of Garhwal Jal Sansthan Karamchari Union Vs. State of U.P., (1997) 4 SCC 24 it has been held that similarity in the duties and functions of two organisations is not a decisive factor. It is also to be seen that there is any qualitative commonality between the two organisations.

6. We have carefully considered the submissions of the learned counsel for the applicant. We are satisfied that the job of Assistant Warden is not

comparable with the job of Hostel Superintendent. We do not know the mode of recruitment, status and the educational qualifications required for both the posts in the absence of recruitment rules. Even on the basis of a comparison of duties, we find that the duties of the Assistant Warden is more onerous and the responsibility shouldered by him is through out the year. This job is qualitatively different from the job of Hostel Superintendent. Even on the ground that an another O.A. has been filed on the same ground and the reliefs prayed for in both the OAs are same, this O.A. has become redundant. The applicant can await the reliefs prayed for in OA 2402/92, which is pending disposal.

7. In the result, the OA is dismissed. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

Narasimha Sahu
21.9.98

(N. Sahu)
Member (Admnv)

rkv.