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(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Allahabad this the 19th day of November, 2001.

C O R A M :- Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Maj. Gen. K.K. Srivastava , A.M.

Original Application No. 1133 of 1997.

J.P. Srivastava S/o Late B.L. Srivastava
R/o H-87, Satyam Vihar Awas Vikash Colony No.1,
Panki Road, Kalyanpur, Kanpur.

.....Applicant

Counsel for the applicant :- Sri A.B.L. Srivastava

V E R S U S

1. Union of India through the Secretary,
M/o Food and Consumer Affairs, D/o Suger and
Edible Oil, Krishi Bhawan, New Delhi.
2. The Secretary, D/o Personnel and Training
M/o Personnel, Training etc. North Block,
New Delhi.
3. The Secretary, M/o Finance, D/o Expenditure,
North Block, New Delhi.
4. The Secretary, Union Public Service Commission,
Dholpur House, Shahjahan Road, New Delhi.
5. The Director, National Suger Institute,
Kalyanpur, Kanpur.

.....Respondents

counsel for the respondents :- Sri Ashok Mohiley

O R D E R (Oral)

(By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.)

By this application under section 19 of the
Administrative Tribunals Act, 1985, applicant has



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prayed for direction to respondents to allow the applicant the upgraded scale of Rs. 3000-5000 w.e.f 11.04.1988 with all consequential benefits in the same manner and on the same consideration on which the Sr. Technical Officers have been allowed from 01.01.1986.

2. The facts in short giving rise to this application are that applicant joined National Sugar Institute (N.S.I), Kanpur on 11.04.1988 as Senior Scientific Officer (Design) in Design and Development Division in the pay scale of Rs. 2200-4000 which is a Group 'A' posts under Government of India. He is holding the post on permanent basis. The grievance of the applicant is that though the Senior Technical Officers were given upgraded pay scale of Rs. 3000-5000, applicant was denied this benefit without rime and reason. It is claimed that applicant is equally qualified to the similar candidates as Senior Technical Officer and respondents were not justified in denying the applicant ^{the} ~~for~~ same pay scale. Learned counsel has also submitted that there is no promotional avenues for the applicant in the institute and applicant may retire from the same post. It is also submitted that post of Chief Design Engineer has fallen vacant on account of ^{retirement} ~~retirement~~ permanent incumbent from July, 2000 but the applicant is not being considered for the said post because he was not granted upgraded scale and at present he ^{is not} ~~has not been given present~~ pay scale. Learned counsel for applicant has placed reliance on the judgement of this Tribunal dated 21.05.1996 passed in O.A 542/1990 in N.S.I Officers and Technical Staff Welfare Association and others Vs. U.O.I and others (annexure- 5). The Division Bench while granting relief to applicants relied on the judgement of Hon'ble Supreme Court

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in case of The Secretary, Finance Department and Ors. Vs. The West Bengal Registration Service Association and Ors. 1992 (1) SCALE 437. The relevant portion has been quoted in the judgement which is reproduced below :-

" We do not consider it necessary to traverse the case law on which reliance has been placed by counsel for the appellants as it is well-settled that equation of posts and determination of pay scales is the primary function of the executive and not the judiciary and, therefore, ordinarily Courts will not enter upon the task of job evaluation which is generally left to expert bodies like the Pay Commissions, etc. But that is not to say that the Court has no jurisdiction and the aggrieved employees have no remedy if they are unjustly treated by arbitrary state action or inaction. Courts must, however, realise that job evaluation is both a difficult and time consuming task which even expert bodies having the assistance of staff with requisite expertises have found difficult to undertake sometimes on account of want of relevant data and scales for evaluating performances of different group of employees. This would call for a constant study of the external comparisons and internal relativities on account of the changing nature of job requirements. The factors which may have to be kept in view for job evaluation may include (i) the work programme of his department (ii) the nature of the contribution expected of him (iii) the extent of his responsibility and accountability in the discharge of his diverse duties and functions (iv) the extent and nature of freedoms/limitations available or imposed on him in the discharge of his duties (v) the extent of powers vested in him (vi) the extent of his dependence on superiors for the exercise of his powers (vii) the need to co-ordinate with other departments, etc. We have also referred to the history of the service and the efforts of various bodies to reduce the total number of pay scales to a reasonable number.

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Such reduction in the number of pay scales has to be achieved by restoring to broadbanding of posts by placing different posts having comparable job-choice in a common scale. Substantial reduction in the number of pay scales must inevitably lead to clubbing of posts and grades which were earlier different and unequal. While doing so care must be taken to ensure that such rationalisation of the pay structure does not throw up anomalies. Ordinarily a pay structure is evolved keeping in mind several factors, e.g., (i) method of recruitment (ii) level at which recruitment is made, (iii) the hierarchy of service in a given cadre, (iv) minimum educational/technical qualifications required (v) avenues of promotion (vi) the nature of duties and responsibilities, (vii) the horizontal and vertical relativities with similar jobs, (viii) public dealings (ix) satisfaction level, (x) employer's capacity to pay, etc. We have referred to these matters in some detail only to emphasise that several factors have to be kept in view while evolving a pay structure and the horizontal and vertical relativities have to be carefully balanced keeping in mind the hierarchial arrangements, avenues for promotion, etc. Such a carefully evolved pay structure ought not to be ordinarily disturbed as it may upset the balance and cause avoidable ripples in other cadres as well."

3. Hon'ble Supreme Court in the above judgement has laid-down guidelines for determining as to ^{where} ~~whether~~ the principles of equal pay for equal work, may be applied. The determinig factors as laid-down are (i) method of recruitment, (ii) level at which recruitment is made, (iii) the hierarchy of service in a given cadre, (iv) minimum educational/technical qualifications required etc.

4. Learned counsel for the applicant has submitted that the educational/ technical qualifications are

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similar to the applicant as well as Senior Technical Officers. For this purpose, we perused the relevant notification. In case of Senior Scientific Officer Grade II (Design), the qualification are as under :-

(A) Master's degree in Mechanical Engineering from a recognised University or equivalent

OR

(B) (i) Degree in Mechanical Engineering from a recognised University or equivalent.

(ii) Two years practical experience in designing Chemical Equipment.

In case of Senior Technical Officers however, the qualifications essential provided is (i) Degree in Mechanical or Electrical Engineering of a recognised University or equivalent, (ii) Five years practical experience of Mechanical or Electrical Engineering work in a responsible capacity, involving designing, erecting and operating upto-date sugar manufacturing plant. The comparison of the two qualifications, clearly demonstrates that the two services are distinct and operating in different fields. The Senior Scientific Officers look after designing and operation of sugar plants whereas the applicant is confined to designing part only. Learned counsel for the applicant has placed reliance much on the fact that teaching work ^{is u} to ^{assign} ^{to u} both cadres.

^u We have considered this factor however, we do not find that merely on this ground, the claim for equal pay for equal work may be raised. Hon'ble Supreme Court has laid-down ^{u criterion} for comparison ^{u for u} ~~before~~ ^{u whether u} ^{u are doing the same u} determining ~~with~~ two services ~~or two~~ works, they are equal and they should be paid equally. However, in

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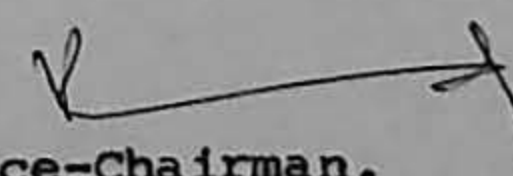
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the present case, we do not find that the ^{of posts} ~~job~~ of Senior Scientific Officers (Design) and Senior Technical Officers are equivalent ^{posts} in any manner. The required qualifications and nature of work ^{at} ~~are distinguish~~ the two services. ^{are distinguishable} The applicant can not claim ^{benefit} on the basis of the judgement of this Tribunal, mentioned above.

5. Learned counsel for the applicant has also submitted that there is no promotional ^{avenue} to the applicant and he applied ^{since} ~~since~~ 1998 but this aspect has not been considered by the respondents. Sri A. Mohiley, learned counsel for the respondents on the other hand has submitted that under A.C.P. Scheme, applicant will get promotion of minimum at two stages in pay scale. He has also submitted that applicant has already ^{been} granted one promotion under the said scheme. Be that as it may, we are not required here to enter in this question. It is for the respondents to consider that injustice is not caused to any cadre, and for that purpose, applicant may approach the respondents by making representation or if any representation is pending, they may consider in accordance with law. Subject to aforesaid, the OA is dismissed.

6. There will be no order as to costs.


Member- A.


Vice-Chairman.

/Anand/