

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (O.A.) No. 198 of 1986

Vijay M. Singh

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Applicant.

Versus

General Manager, Ordnance
Clothing Factory, Shahjahanpur
and others.

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Respondents.

Connected with

Registration (T.A.) No. 1541 of 1986

Vijai M. Singh

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Plaintiff-Applicant.

Versus

General Manager, Ordnance
Clothing Factory, Shahjahanpur
and others

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Defendant-Respondents.

Hon'ble S. Zaheer Hasan, V.C.
Hon'ble Ajay Johri, A.M.

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(Delivered by Hon. Ajay Johri, A.M.)

In this application (Registration (O.A.) No. 198 of 1986) received under Section 19 of the Administrative Tribunals Act XIII of 1985 the applicant, Vijai M. Singh, who was working as a Teacher in the Ordnance Clothing Factory at Shahjahanpur, has come up against the denial of giving him selection grade even though he had joined the service in the year 1950 and the same has been given to certain persons, who were junior to him.

2. In ^{3/ another} ~~this~~ application (Registration (T.A.) No. 1541 of 1986) ^{3/ also} received on transfer from the court of Civil Judge, Shahjahanpur under Section 29 of the Administrative Tribunals Act XIII of 1985, the applicant, Vijai M. Singh, who is the plaintiff in the suit has come up against the

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non-fixation of his pay in accordance with the upgradation of the post on which he was working with effect from 1.7.1967³⁴. He has prayed for a direction to be issued to the defendants to fix his pay and make payments accordingly to the date of upgradation along with pendente lite and future compensation and damages of Rs.200/- per month.

3. The facts in both the cases being similar and the points involved being fixation of his pay and also giving him the selection grade, both the cases are being dealt with together by a common judgment.

4. The facts of the case are that the plaintiff-applicant (applicant) was appointed as a Physical Training Instructor (P.T.I.) at the Ordnance Clothing Factory (OCF), Shahjahanpur on 12.10.1950 in the Junior High School. This school was upgraded to High School in the year 1964 and was ultimately recognised by the State Education Department for upgradation with effect from 1.7.1967. The applicant³⁴ claims³⁴ that even at the time of his initial appointment in the Junior High School he had the requisite qualifications to work in High Schools. ~~and, therefore,~~³⁴ Consequent to the upgrading of the school to High School³⁴ ~~the~~^{when} defendant-respondents (respondents) upgraded the applicant with effect from 1.7.1967 to impart education to High School classes ~~and~~³⁴ ~~since~~^{because from} the date of upgradation the applicant had been imparting instructions as a Physical Training Instructor for High School classes, Though consequent to the upgradation, his pay was to be fixed³⁴ ~~but~~^{but} the respondents did not do so. ~~and~~³⁴ ~~they~~^{they} only sanctioned payment of a honorarium to him. The respondents kept on taking work from him of teaching the High School classes. He made various representations but they were not disposed of by the time the suit was

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filed by him . In the suit, therefore, he ^{has} prayed for the reliefs that he be declared entitled for fixation of his pay in accordance with the upgradation with effect from 1.7.1967 and for the issue of a direction to the respondents to make payments to him accordingly and award him pendente-lite and future compensation and damages at the rate of Rs.200/- per month on ~~an~~ account of loss and harassment. Thus his prayer in the suit was for fixation of his pay consequent to the upgradation of the school and the prayer in the application received under Section 19 of the Administrative Tribunals Act XIII of 1985 is ³⁴ ~~also~~ to give him selection grade which is due to him after putting ³⁴ ~~by him~~ ^{14 24} years of service as a Teacher.

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5. The respondents have not denied the facts as stated by the applicant except that they have said that when the upgradation of the school was sanctioned, the condition imposed by the Ministry of Defence was that no extra ³⁴ ~~Government~~ recurring expenditure should be involved and that the applicant was upgraded in the scale of pay of Higher Secondary School with effect from 1.7.1967 vide Factory Order No.648 of 20.4.1977 which was published on the authority of the Additional Director General of Factory's letters dated 12.6.1975 and 14.8.1975 wherein it was clearly mentioned that no additional expenditure by way of difference of pay and allowances ³⁴ ~~of~~ ^{to} the applicant, who has been upgraded from Junior High School, were to be allowed. The request of the plaintiff was considered by the Additional Director General, Ordnance Factories, Kanpur, who replied that the matter has already been considered and decided earlier. He also referred to the letter of 14.8.1975 under which the orders for upgradation were issued and

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stated that the additional expenditure of pay and allowances of Physical Training Instructor will not be borne by the Central Government. In the light of the above the applicant was only entitled to honorarium as in the case of other teachers similarly upgraded and suitable reply was given to the applicant on 31.5.1978. They have further said that the suit of the plaintiff-applicant ^{is} ~~is~~ time barred. On the subject of selection grade which the applicant has claimed in Registration (O.A.) No.198 of 1986 the respondents have said that the applicant has made no representation for being given selection grade. However, his case for fixation in the higher grade had been considered by the respondents and a decision was communicated to him on 24.2.1982 wherein it was said that since the posting of the applicant to the post of P.T.I. in the High School was subject to the condition that it will not involve any additional recurring cost as such he remained in the grade of Rs.440-750 which he was drawing earlier. As regards selection grade having been given to another person they have said that since he was in the grade of Rs.440-750 at the time the selection grade was given to him but the applicant at that particular time was in the grade of Rs.425-640 as P.T.I. which was a lower scale and, therefore, selection grade could not be given to him.

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6. We have heard the learned counsel for the parties. The contentions raised on behalf of the applicant were that since the school was upgraded to a High School and the posts were also upgraded the offer of honorarium to the applicant instead of fixing him in the higher grade was incorrect and even the honorarium was not paid as it was objected to by the Accounts

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Department, who suggested that the applicant be given the higher grade rather than the honorarium and in regard to the selection grade since he had completed 14 years of service since the upgradation of the school he was not only entitled to fixation of his pay but also to the selection grade which became due to him after completion of the requisite service. These contentions were repelled by the learned counsel for the respondents on the ground that the letter for upgradation was specific that no extra financial liability was to be accepted by the Government and, therefore, the applicant could not be given the upgraded scale consequent to the Junior High School having been made a High School. We have also gone through the case files in both the original and transferred applications.

7. It is not under dispute that the Junior High School in the Ordnance Clothing Factory at Shahjahanpur was upgraded to the High School status and that the applicant was also upgraded with effect from 1.7.1967. The only ground on which he was refused the pay as admissible to the teachers of High Schools was the direction issued by the Additional Director General of Ordnance Factories in regard to the extra expenditure which would become liable consequent to the upgradation. This expenditure was not sanctioned and it resulted in the denial of proper pay scales being given to the applicant.

8. It is not the case of the respondents that the applicant did not have proper qualification to be considered for being given the higher scale of pay which became due to him when he was asked to teach the High School classes. The denial was, therefore, not on the basis indicating that the applicant did not have proper

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qualifications and if he had proper qualifications and if he was teaching the High School classes the reason that due to the nonsanction of any extra funds entitled pay could not be given to the applicant will sound absurd. We, therefore, feel that the order of the Addl. Director, Ordnance Factories under which shelter has been taken by the respondents to deny the payments to the applicant cannot be sustained. If he was teaching High School classes and was qualified to do the same he had to be paid the proper salary of the post. The grounds of 'no extra recurring expenditure' cannot be imposed unilaterally to deny the payment of proper wages to a person who has discharged his duties honestly and to the satisfaction of the authorities, he had not consented to forego the same. If a decision was taken to upgrade the school the position of funds was the first charge to be examined and insufficiency of funds should have postponed the upgradation rather than stepping the pay of the teachers ³¹de⁴parted to perform the duties of the High School teacher.

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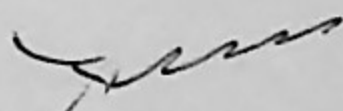
9. As far as the selection grade is concerned since the applicant had been incorrectly denied the proper scale of pay he will also become due the selection grade after he had completed the required number of years. The same was denied to him on the grounds that he was in the lower scale of pay. In para 9 of their reply to the application under Registration (O.A.) No.198 of 1986 the respondents have said that the applicant remained in the same grade because additional recurring cost was not sanctioned by the Addl. Director General. In B.P.Pandey's case he was given selection grade as he was in the grade of Rs.440-750. According to the respondents the applicant w

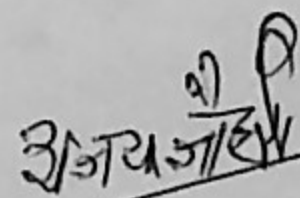
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was working in the grade of Rs.440-750 as averred in their reply. We see no reason why if B.P.Pandey could be given the selection grade because he was working in this grade the applicant could not be given the same. In any case we have already observed above that the denial of proper grade to the applicant was incorrect and he should have been given the pay for the work which he was asked to perform.

10. Under the above circumstances we allow both the applications (original as well as transferred Suit No.54 of 1984). Parties will bear their own costs through out.


Vice-Chairman.


Member (A).

Dated: January 21, 1988.

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