

Re-Fixation
Equal pay to Equal
work.

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CAT/M/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A. No. 325 OF 1988
XXXXXXXX

DATE OF DECISION 13-1-1992.

Atul M. Vakharia, Petitioner

Mr. D.M. Thakkar, Advocate for the Petitioner(s)

Versus

The Director, National Research Respondent s
Centre for Groundnut & Ors.

Mr. R.A. Mishra, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C. Bhatt, Judicial Member.

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *Yes*
4. Whether it needs to be circulated to other Benches of the Tribunal? *Yes*

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Atul M. Vakharia,
Kadiawad, Ram Commercial
Centre, Kabir Street,
Junagadh.

..... Applicant.

(Advocate: Mr. D.M.Thakkar)

Versus.

1. The Director,
National Research Centre,
for Groundnut,
Opp: Timbawadi,
Junagadh.

2. The Under Secretary,
Indian Council of Agricultural
Research, Krishi Bhavan,
New Delhi.

..... Respondents.

(Advocate: Mr. R.A.Mishra)

J U D G M E N T

O.A.No. 325 OF 1988

Date: 13.1.1992.

Per: Hon'ble Mr.R.C.Bhatt, Judicial Member.

As both the learned advocates have submitted their written arguments, this application filed under section 19 of the Administrative Tribunals Act, 1985, is disposed of on the basis of the written submissions filed by the learned advocates for the parties and on the basis of the record of this case.

2. The applicant claiming himself as an Artist-cum-photographer, serving under the Respondent No.1, has filed this application for the refixation of his pay scale of Rs. 425-800 as Artist-cum-photographer in place of his existing pay scale of Rs. 260-430 with all arrears and difference till today with all consequential benefits. The applicant was

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appointed on the post of Artist-cum-photographer (supporting staff Grade IV) in the pay scale of Rs. 225-308 vide order of Respondent No.1 dated 14th December, 1981 produced at Annexure 'A' on probation for a period of two years with effect from 21st November, 1981. Annexure 'A-1' produced by the applicant shows that by the letter from Administrative Officer, IG.Scientist, S-2 to the Under Secretary (EE.III), Indian Council of Agricultural Research, New Delhi, this post was upgraded as Artist-cum-photographer (T-I) with the scale of Rs. 260-430 with effect from 13th September, 1982. The grievance of the applicant is that the post held by him is in the technical category and through out the country the pay scale of Rs. 425-800 in all Councils ^{is given} under the I.C.A.R. and he has demanded that scale on the principle of equal pay for equal work. The applicant has produced at Annexure A-3, a letter to the Respondent No.1 dated 18th February, 1986 regarding the applicant's representation for fixing his pay scale from Rs. 225-308 to new pay scale of Rs. 425-800. However, by an order dated 11/14th July, 1986, Annexure A-4, his request was turned down after his case was examined and considered in detail by the Council Headquarters, New Delhi on the ground that the applicant did not fulfill the prescribed recruitment rules for the post of Artist-cum-photographer as per the Technical service rules of I.C.A.R., and, therefore, his pay could not be revised. It is the case of the applicant that he was appointed as Artist-cum-

photographer on the basis of requisite qualification possessed by the applicant and therefore the impugned order, Annexure A-3 & A-4, both was totally unjustified, arbitrary and illegal and is violative of Article 14 & 16 of the Constitution of India. According to the applicant, since the aforesaid post is attached with the pay scale of Rs. 425-800 in all other councils all over India, there is no justification in discriminating the applicant by not paying the same.

3. The case of the respondents as found in reply and in the written submission is that the post of Artist-cum-photographer (SSC-IV) at NRCG Junagadh was initially sanctioned in the pay scale of Rs. 225-308 (Group-D) by the I.C.A.R. after obtaining necessary approval of the Finance Ministry, that the applicant was selected by duly constituted selection committee and the applicant was allowed to join the duties and appointed on that post which was subsequently upgraded and brought under the technical services of I.C.A.R. in the pay scale of Rs. 260-430 (T-I) under category-I of the technical service rules. This is a Group-C post now. The applicant demanded a much higher grade of Artist-cum-photographer Category-II (T-II-3) in the pay scale of Rs. 425-800 through his representation submitted to the Under Secretary, Indian Council of Agricultural Research. It is contended by the respondents that as there was no post of Artist-cum-photographer under Category-II (T-II.3) sanctioned in the pay scale of Rs.425-800 for N.R.C.G. Junagadh and also the applicant was not possessing the requisite qualification for

the category-II post, his request could not be acceded to by the I.C.A.R. Headquarters and the applicant was informed accordingly.

4. The main bone of contention of the applicant is that since Research Centre at Junagadh is taking the service of the applicant which are of the same nature and responsibility and the duties being done by the Artist-cum-photographer in other councils/in the pay scale of Rs. 425-800 as per the principles of 'equal pay for equal work' recognised by the decision in Surinder Singh and another Vs. The Engineer in Chief, C.P.W.D. and others, AIR 1986 SC 584 ^{and} / it is immaterial whether the establishment had different category of sanctioned post and the respondents must give equal pay for equal work as the applicant is discharging the same nature of duties that is being discharged by other Artist-cum-photographers in the pay scale of Rs. 425-800 ^{and} / there is no justifiable reason to deny the said pay scale to the applicant. It is also mentioned in the written submission by the applicant that he fulfilled all the qualification as required for the post of Artist-cum-photographer in the grade of 425-800 and therefore, the applicant be granted the said pay scale. This argument of the applicant has been seriously challenged by the respondents in the reply and in their written submissions. They have contended that the statement of the applicant that in all other I.C.A.R. Institute only one pay scale of Artist-cum-photographer (T-II.3) is

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existing is not correct. The respondents have produced at R-1, qualification prescribed for various categories and the relevant abstract of technical service rules of I.C.A.R. and at R-2 is the copy of vacancy circular for a similar post in a different pay scale of Rs. 330-560(T-2) issued by another ICAR institute, namely National Research Centre for Mushroom Research and Training, Solan which shows that different pay scales exist for the post of Artist-cum-photographer and the pay scales are also different under the I.C.A.R. set up. Reading these two documents, R-I and R-2, the applicant's plea that there is only one pay scale existing under I.C.A.R. as a whole for the post of Artist-cum-Photographer cannot be accepted. Reading Ann. R-I it is found that the Technical Service Rules shows that for category T-I the pay scale is Rs. 250-430 which the applicant is getting and his post was prescribed only ⁱⁿ that category of T-I but he is demanding the scale of category-II grade (T. .3) which is of the scale of Rs. 425-700. It is ^{the} submission of the respondents that since the quantum of work for the Artist-cum-photographer at N.R.C.G. Junagadh is much less compared to other Institutes, the pay scale of Rs. 250-430 (T-I) was only considered sufficient by the I.C.A.R. and accordingly sanction of the post of T-1 grade was accorded after obtaining the approval of the Finance Ministry. It is not in dispute that the applicant was appointed on the post of SSG-IV Artist-cum-photographer was upgraded to Artist-Cum-photographer (T-I) and the scale in that

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category^{is} as per his pay scale of Rs. 260-430 the applicant is performing the duties required for that post. The respondents have denied that they are extracting any more work from the applicant as alleged by him. It is also the case of the respondents that even for considering the eligibility of the applicant to T-1 grade, he is required to go through the selection process as required under Rules since he is still holding only a group 'D' post whereas T-1 grade is a Group 'C' post.

5. The applicant in the rejoinder affidavit has contraverted many contentions of the respondents and he has referred to the decision in Writ Petition No. 1474 of 1986 decided by the Andhra Pradesh High Court dated 19-12-1986 in the case of Government of India and others Vs. Y.R.N. Sharma and another, in which it was held that the employees designated as computers and senior computers working in the section-appellant organisation and in its various projects should be put in the same scale of pay Rs. 425-600. The applicant has denied that he has not fulfilled the required qualifications for the post of Artist-cum-photographer as laid in the recruitment rules of technical services in the pay scale of Rs. 425-800. According to the applicant, he has given trade test and has been declared successful and he is ~~xxx~~ the only Artist-cum-photographer with the respondents. The contention of the respondents is that the prescribed qualification for the post of Artist-cum-photographer for the pay scale of Rs. 225-308 is different from that

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of the pay scale of Rs. 425-800. In para-5^{of} reply respondents have given the said prescribed qualifications.

"Recruitment Rules for Artist-cum-Photographer
Rs.225-308(Supporting Staff Grade-IV) Rs.425-800 (Technical Category ~~Ax~~(T-II-3))

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|--|--|
| 1. Good General Education. | 1. Diploma/Bachelor's Degree in Fine Arts, or |
| 2. Must qualify a departmental trade test. | Matriculate with 10 years' experience in relevant field in University/ICAR/Institute/Organisation of repute. |
| | 2. 3 years experience for Diploma holders". |

This shows that the applicant does not fulfil the requisite qualification for the post of Artist-cum-photographer in the pay scale of Rs. 425-800. The qualification possessed by the applicant is only simple graduation, i.e., B.Com. with 5 years' experience in a private studio which cannot be considered as the requisite qualification and in fact he does not possess any professional experience. It is submitted by the respondents that, therefore, applicant's representation for stepping up of his grade to Rs. 425-800 after due consideration rightly was rejected. The respondents have also denied that the applicant is discharging the duties prescribed for the post of Artist-cum-photographer of the grade of Rs. 425-800 at N.R.C.G. nor is he qualified for the same as required under the relevant recruitment rules. It is contended by the respondents that the applicant has worked as a supporting staff Grade-IV, and he has not done equal work of

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Artist-cum-photographer (Technical category). It is submitted by the respondents that the applicant's appointment is in Grade-IV while the Artist-cum-photographer are appointed in technical category and are having different qualification. The ratio laid down in the decision in Surinder Singh's case (supra) will not apply to the applicant's case as the work and qualification of the applicant and his posting is quite different then the work, qualification and experience of Artist-cum-photographer in T-I.3 in category-I or T-II.3 in category-II.

6. Having gone through the pleadings, documents on record and the written submissions of both the parties, I am not satisfied that the respondents have arbitrarily rejected representation of applicant in not refixing his pay scale of Rs.425-800. I hold that the action of respondents is neither illegal or arbitrary, discriminatory or violative of Articles 14 & 16 of the Constitution of India and therefore there is no ground to interfere in the impugned order passed by the respondents.

7. The result is that the application is dismissed with no order as to costs. The application is disposed of.

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(R.C. BHATT)
Member (J)