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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 276 OF 1989

Date of decision: 8th May, 1991

Nursingha Charan Patnaik & others : Applicants

Versus

Union of India and others : Respondents

For the applicants : M/s. P.V. Ramdas, B.K. Panda,
Advocates.

For the Respondents : Mr. T. Dalai, Add. Standing
Counsel (Central)

C O R A M:

THE HON'BLE MR. B.R. PATEL, VICE CHAIRMAN

A N D

THE HON'BLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be permitted to see the judgment? Yes.
2. To be referred to the reporters or not? *Yes*
3. Whether Their Lordships wish to see the fair copy of the judgment? Yes.

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J U D G M E N T.

B.R.PATEL, VICE-CHAIRMAN.

In this case the applicants (~~Twelve~~ in number) who are all working as Civilisan Education Instructors, Chilka Naval Base (C.E.Is) at Chilika in the district of Puri have approached the Tribunal for a direction to be issued to the Respondents to grant them the same pay and allowances as are given to the Education Officers (E.Os) in the Navy; to change their designation to that of an officer enjoying the rank of Educational Officer in the Navy; to provide time scale promotion opportunities; to set aside Annexure-5 which is an order dated 15.4.1989 issued by the Head quarters, Southern Naval Compound, Cochin rejecting the representation of the CEIs to redesignate their posts as Civilian Education Officer and to provide them other service benefits as are given to similarly situated personnel in the defence Department.

2. The claim for party with the EOs in the matter of pay and allowances is mainly on the ground that they perform the same duties and shoulder the same responsibilities as the EOs and that they are equally qualified or 'slightly more qualified' than

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the EOs of the Navy. The ground urged for change of designation is that there is 'rank' consciousness in the navy and being 'instructors' they get scant respect from others. According to them in the navy as also in the Army, designation is greatly valued while exchanging respects and observing normal courtesies and in place of 'instructor' it should be 'officer' befitting their status. They have argued for a time scale promotional opportunities because according to them there is no promotional channel for the CEIs.

'A CEI who is appointed to the post retires as a CEI on superannuation'.

2. The Respondents have maintained in their counter affidavit that the work and responsibilities of the CEIs are not comparable with those of the EOs of the Indian Navy. They are not equals and there is no question of discrimination. They have also said that the CEIs being nongazetted, Class-III employees cannot be designated as Officers. In short they have maintained that keeping in view the fact that they are only group 'C' non-gazetted employees involved in instructional duties only without any administrative or supervisory role, it was considered appropriate

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by the Government who examined this question to continue with the existing nomenclature. They have further stated that the scale of pay of CEIs have been revised upward on the recommendation of the fourth Pay Commission.

3. We have heard Mr.P.V.Ramdas, the learned counsel for the applicants and Mr.Tahali Dalai the learned Additional standing counsel (Central) for the Respondents and perused the relevant documents. Mr.Ramdas has averred that as the qualification of the CEIs is the same as that of the Education Officers and the duties performed by the CEIs and the EOs are the same or similar in nature the CEIs should be allowed the same pay and emoluments as are given to the EOs of the Indian Navy. According to Mr.Ramdas the Education Officers of the rank of Sub-lieutenant are in the scale of Rs.2300-4000/- whereas CEIs get Rs.1400-2600/- (revised) . In this connection he placed before us the Judgment of the Hon'ble Supereme court in the case of Y.K.Meheta and others Vs.Union of India and others reported in AIR 1988 S.C. 1970. This judgment deals with the principle of equal



pay for equal work as embodied in Cl.(d) of Article-39 of the Constitution of India. In paragraph-11 of their Judgment the Hon'ble Supreme Court have observed as follows:

" When two posts under two different wings the same Ministry are not only identical but also involve the performance of the same nature of duties. It will be unreasonable and unjust to discriminate between the two in the matter of pay. One of the directive Principles of State Policy, as embodied in Clause(d) of article 39 of the Constitution is equal pay for equal work for both men and women". Even leaving out of our consideration Ar-39(d) the Principle of "equal pay for equal work", if not given effect to in the case of one set of Government servants holding same or similar posts, possessing same qualifications and doing the same kind of work, as another set of government servants, it would be discriminatory and violative of Articles 14 and 16 of the Constitution".

Mr. Dalai has contended that the qualifications prescribed for the post of CEIs and those of EOs are different, they are also recruited differently and the work done by them is not the same. In this connection he has drawn our attention to Paragraphs-6 and 7 of the Counter. Paragraph-6 mentions that the CEIs are Group 'C' Civilian Employees whereas the E.Os. are officers of the Indian Navy governed by the Navy Act 1957 and statutory regulations made thereunder. They are commissioned officers. The CEIs are employed in imparting instructions only in academic subjects whereas EOs are responsible for overall professional

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and technical training of the recruits including officers cadets at Naval Academy, naval college of engineering, national defence academy, specialist executive schools, higher organisation such as college of defence management and defence services staff college. In addition to instructional duties, they also perform divisional duties, officers of the day duty, audit accounts duties which 'civilian educational instructors are never called upon to do'. In Paragraph-7, it has been mentioned that the CEIs are recruited through employment exchange whereas the EOs are recruited through Union Public service Commission (UPSC)/service selection Board and are given the same pay scales as are given to the officers of the armed forces. As civilian educational instructors and service education officers are two distinct classes governed by different sets of rules, there can never be any comparison between the two. Therefore, the question of discrimination does not arise. Mr. Dalai maintains that the minimum qualification prescribed for the CEIs is different from that prescribed for the EOs. Mr. Ramdas has drawn our attention to Annexure-A/7 which

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is a letter dated 17th. September, 1987 written to one of the CEIs and Annexure-A/8 to the rejoinder to establish that CEIs teach also in professional training establishment like Anti-Submarine Welfare School (ASW Schools) and INS Valsura.

Paragraph-11 of the Judgment of the Hon'ble Supreme Court quoted above, lays down the following criteria which should be satisfied before the principle of equal pay for equal work could be implemented:-

1. The posts are identical;
2. The post should also involve the performance of the same nature of duties.
3. The two sets of government servants holding same or similar posts and
4. should possess the same qualifications;

We will have to examine the present case in the light of the aforesaid guidelines. Admittedly, the duties of the CEIs and EOS are educational or instructional in nature. As we find from Annexure-2 to the application the CEIs are mainly employed in teaching Hindi, English, and other subjects such as Mathematics, History and Geography to Boys and Ratings. They are also required

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to take officer's Hindi Classes, to assist Education Officers in maintaining information rooms and libraries and to perform such other educational duties as may be assigned to them by the commanding officer. They will be regarded as part of the educational staff and will carry out their duties under the direction of the Senior Education Officer of the Establishment. One thing is clear from Annexure-2 and that is that the CEIs work under the direction of the senior education officers. The duties of the EOs have been indicated by the Respondents in their counter which has been quoted above. There is in our opinion qualitative difference in the duties performed by the CEIs and the EOs and are not comparable. The divisional duties, officers of the day duty and Audit and Accounts duties are done only by the EOs. They are also responsible for overall professional and technical training of the recruits at Naval academy, naval College of engineering etc. In our opinion, therefore, the duties attached to the two posts of CEIs and EOs are not the same nor are they comparable.

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4. We have looked into the Navy Group 'C' Instructional Staff Posts Recruitment Rules, 1979. In the schedule annexed to the rules relating to Civilian Educational Instructor, the educational and other qualifications required for direct recruits has been indicated in the Col-8 as follows:

Essential: a degree from a recognised University with a diploma/degree in Teaching, sound knowledge of Hindi. Desirable: one year's experience in teaching. These posts are Group 'C' non-gazetted, non-ministerial. The Government of India, Ministry of Defence letter dated 3rd. January, 1975 addressed to the Chief of the Naval Staff on the subject of Entry in the Education Branch-1975 onwards conveys the sanction of the President to the revision of the minimum academic qualifications for entry into the education branch from 1975 onwards as under:-

(a) A second class Master's degree of a recognised university in physics or Mathematics.

Candidates possessing master's degree in Physics should have studied Mathematics at least at the subsidiary

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level at the degree standard; or

(b) A second class master's degree of a recognised University in Chemistry or English. Candidates possessing Master's degree in Chemistry should have studied physics at the subsidiary level at the degree standard and those possessing master's degree in English should have studied physics or Mathematics up to the intermediate or equivalent standard ; or

(c) A recognised degree in Mechanical or Electrical Engineering. In the note it has been mentioned that preference may be given to those who possess, in addition teaching qualifications or who have had teaching experience. This makes it abundantly clear that while the minimum qualification prescribed for the Post of CEIs is a degree that prescribed for EOs is post Graduate. It is immaterial if any CEIs possess Post-Graduate or doctorate qualification since the minimum qualification prescribed is a degree. From the above analysis it is clear that though the duties performed by the CEIs and EOs are of the same nature i.e. Educational or instructional they are not the same or comparable.

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The is qualitative difference in the duties performed by the CEIs and EOs. The qualification prescribed is also different. We may further add that while the EOs are recruited through UPSC, the CEIs are recruited from amongst the candidates sponsored by the employment exchange. The level of responsibilities attached to the two sets of posts is different and the CEIOs work under the direction of the Senior Education Officers. As such we are unable to accept the plea of Mr. Ramdas that the CEIs should be given the same pay and allowances are are given to the EOs.

5. The Respondents have maintained in Paragraph-11 of their counter that the question of change of nomenclature of applicants from Civilian Educational Instructors to Civilian Education Officer was examined by the Government. But keeping in view that the CEIs are only Group 'C' non-gazetted employees involved in the instructional duties only without any administrative or supervisory role, the Government considered it appropriate to continue with the existing nomenclature. We agree with Mr. Dalai that the designation of Posts should go along with the nature of duties and responsib-

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responsibilities and the hierchiecal level of the posts. But if change of the Present designation would be more satisfying to the employees concerned thereby improving their quality of work which will be in the overall interest of the navy, the respondents should reconsider the matter of changing the existing nomenclature into an appropriate designation.

6. Mr. Ramdas has contended that the CEIs should not be allowed to languish in the same post with the same pay scale through out their service career and has urged that in the interest of administration they should be provided with adequate promotional avenues. In this connection he placed before us the Supreme Court Judgment in the case of Raghunath Pd. ~~xi~~ Singh Vs. Secretary Home (Police) Department, Government of Bihar and others reported in AIR 1983 (SC) 1033 and the one in the case of Council of Scientific and Industrial Research Vs. K.G.S. Bhatt reported in AIR 1989 SC 1972. In the first case referred to above, even though the Hon'ble Supreme Court have turned down the appeal they have directed the

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State of Bihar to provide promotional opportunities to the Officers of the State Policy in the wireless organisation. To make matters clear we would quote the following portion from Paragraph-4 of this Judgment;

" Reasonable promotional opportunities should be available in every wing of public service That generates efficiency in service and fosters the appropriate attitude to grow for achieving excellence in service. In the absence of promotional prospects, the service is bound to degenerate and stagnation kills the desire to serve properly".

In the latter judgment though the S.C. did not accept & the judgment of the Central Administrative Tribunal, Bangalore Bench in regard to the interpretation of the relevant law, they have observed in paragraph-14 of this judgment as follows:

"In the instance case as already noticed that respondent-1 has suffered and stagnated for about twenty years in the same scale from inception due to defective promotional policy. Therefore, we decline to interfere with relief granted by the Tribunal although we do not agree with the views expressed on the scope of bye-law 71(b) (ii)".

The Respondents in their ^{combined} paragraph have maintained

that although promotion cannot be claimed

as a matter of right, Government from time to time

review the service conditions of its employees and

initiate steps to create higher appointment based

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on functional cum structural justification within budgetary constraints. The applicants have pleaded in their application that they have no promotional avenue and they enter the service as CEI and also retire as CEI in the same scale of pay. This is in our opinion, not conducive to efficient administration lack of promotional opportunities and long stagnation ~~x~~ statifies initiative and the will to perform such situations are also deprecated by the highest court of the land as is clear from their judgments two of which have been referred to above. Keeping in view the observations of the Hon'ble Supreme Court which we have quoted above, we would direct that the Respondents consider provision of adequate promotional opportunities to the CEIs either by providing ~~4~~ higher time scales or some senior posts with higher pay scales proportionate to the cadre strength of the CEIs. We have noticed in Paragraph-14 of the counter that the Respondents are working in this direction and that there is a proposal to grant a Senior scale of Rs.1640-2900/- after twelve years of service and there after a selection

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grade of Rs.2000-3500/- for 20% of the posts of senior scale. There is also a proposal for a teaching allowance. We hope and trust that expeditious steps would be taken by the Respondents to finalise these proposals. Though not formally included in the list of reliefs sought by the applicants, Mr. Ramdas has pressed for a cadre review. Relying on Paragraph-4(10) of the application Mr. Ramdas has stated that though the cadre is more than 30 years old there is no clear line of demarcation ^{of duties} performed by the CEIs. This is an administrative matter and we have no doubt it would receive the attention of the Government.

This case is accordingly disposed of leaving the parties to bear their own costs.

Mess Eup 80571.

 Member (Judicial)

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 Vice - Chairman.

Central Administrative Tribunal,
 Cuttack Bench, Cuttack,
 April , 1991/ Mohanty

