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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 178 of 1990

Date of decision: 17th September, 1991

P.I. Mathai

Applicant

Versus

Union of India and others

Respondents

For the Applicant

: M/s. M.M. Basu, D.K. Patnaik,
S.D. Swaia, D. Rath,
J.K. Mohapatra,
Advocate .

For the Respondents.

: M/s. A.B. Misra ~~XXX~~ Sr. Counsel
Tahali Dalai,
Addl. Standing
Counsel.

CORAM:

THE HON'BLE MR. K.P. ACHARYA, VICE CHAIRMAN

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

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J U D G M E N T

K. P. ACHARYA, VICE-CHAIRMAN: In this application under section 19 of the Administrative Tribunals Act, 1985, the Petitioner prays to quash the order contained in Annexure-6 rejecting the prayer of the petitioner to be given the Pay scale of Rs. 2,000-3200/- with effect from 1st January, 1986.

2. Shortly stated, the case of the Petitioner is that he is a Language Laboratory Technician in the Central Institute of Indian Languages under the Ministry of Education and Culture stationed at Bhubaneswar. According to the Petitioner the prescribed qualification for appointment to the Post of a recordist in the Film Division under the Ministry of Information and Broadcasting is self same as that of the qualification prescribed for appointment to the post of a Language Laboratory Technician and further more, it is maintained by the Petitioner that the nature of work and responsibility of the employees in respect of these two posts mentioned above, are self same rather, the responsibility attached ^{to} the post of Language Laboratory Technician is ^{is} higher than the post of a recordist. Initially, the prescribed pay

scale for both category of posts (mentioned above) were Rs. 550-900/-. The Fourth Pay Commission have initially recommended the Pay scale of Rs. 1640-2900/- for the post of a recordist and subsequently ^{for} unknown reasons, the Fourth Pay Commission enhanced the pay scale of a recordist to Rs. 2000-3200/- whereas the pay scale of a Language Laboratory Technician still remains at Rs. 1640-2900/-. Hence this application with the aforesaid prayer .

3. In their counter, the Opposite Parties maintain that higher pay scale was recommended by the fourth Pay Commission and the reasons for recommending a higher Pay scale for the recordist is known to the Fourth Pay Commission. and it is further more maintained in the counter that considering the special circumstances, the Respondents No.1 has rejected the prayer of the Petitioner for granting the pay scale of Rs.2,000-3200/- which should not be unsettled, rather sustained.

4. I have heard Mr. M.M.Basu, learned Counsel for the Petitioner and Mr. A.B.Misra, learned Senior Counsel and Mr. Tahali Dalai, learned Additional Standing Counsel for the Central Government at a considerable length. The Counsel appearing for

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the Opposite Parties strenuously argued before me that the order passed by the Opposite Party No.1 upholding the Pay Scale of Rs. 1640-2900/- for the post of Language Laboratory Technician has been passed after due consideration of all aspects relating to this matter and therefore, the application being devoid of merit ^{and} liable to be dismissed.

5. In their counter the Opposite Parties do not dispute the assertion made by the Petitioner regarding the prescribed qualification, Responsibility and the nature of work between the two posts namely Language Laboratory Technician and Recordist in the films Division. Therefore, it is deemed to have been admitted. Apart from the averments in the counter, my attention was drawn to Annexure-R/2 dated November, 6, 1989 addressed to the Secretary to the Government of India, Ministry of Human Resource Development, Department of Education, New Delhi by the Director incharge Shri A.K. Shivastava. Therein it is stated as follows:

"xx xx Further it is stated that the nature of duties performed by the Language Laboratory Technicians in the Institute/Regional Language Centres is attached at Annexure-I.

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As seen from the above, the Language Laboratory Technicians do much more work than the Recordists and the responsibilities attached to the Language Laboratory Technicians are comparably higher".

5. In view of the above quoted opinion expressed by the Director of the Insitute there cannot be any iota of doubt that the case of the petitioner , that the two posts mentioned above, carries the same nature of the duties and responsibilities, if not higher as mentioned by the Director in Annexure-R/2 . In their counter, the Opposite Parties maintain that the reason for giving a higher Pay scale to the Recordists is a matter known to the Fourth Pay Commission. It is eventually that such reasons were unknown to Respondent No.1 and therefore, I failed to understand as to what are the special circumstance which were taken for consideration by Respondent No.1 to reject the prayer of the petitioner to give the samescale of pay as that of Recordists. Undisputedly, the reasons for giving a higher pay scale to a post which is ^{of} same nature to another comparable post giving a lesser pay scale must be made known to the Court and every administrative order could be subject matter of judicial review. In absence of the reasons , the Court cannot be draw an adverse inference against the party who is required to

assign reasons for passing ^{a particular} the ~~different~~ order.

Law is well settled that when two posts are similar in nature so far as qualification, responsibility and nature of work is ^{concerned} ~~same~~, there cannot be any difference in the pay or other emoluments and if there is any difference it is a clear discrimination attractive ^{ng} Article 14 of the Constitution and it violates the principles of natural justice.

7. In view of the aforesaid discussion I hold that the post of Language Laboratory Technician is exactly same as that of Recordists in the Films Division under the Ministry of Information and Broadcasting so far as the nature of work, responsibility etc. are concerned and therefore, there should not be any difference ⁱⁿ the Pay Scale of the incumbents holding the posts mentioned above. Therefore, it is directed that the Petitioner be given a pay scale of Rs. 2000-3200/- ^{with} effect from 1st January, 1986 and the arrear amount which is due to the petitioner should be calculated and paid to him within 90 days from the date of receipt of a copy of the judgment.

8. Thus, the application **stands** allowed leaving the parties to bear their own costs.



K. Mohanty
17-9-91

VICE CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty