

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, CALCUTTA

O.A.No. 409/1996

Present : Hon'ble Mr. S.K. Ghosal, Admn. Member
Hon'ble Mr. P.C. Kannan, Judicial Member

MANDRANJAN DAS

V/s.

UNION OF INDIA & ORS.

For the applicant : Mr. B. Mukherjee, Counsel

For the respondents: Mr. S.K. Dutta, Counsel

Heard on : 9.5.2000

Order on : 9.5.2000

ORDER

Hon'ble Mr. S.K. Ghosal, Member (A)

The applicant is aggrieved by the order at Annexure A-3 dated 12.12.1995. The operative part of that order as it relates to the scale of pay for the post of Book Binder held by the applicant is reproduced below:-

* The revision of pay scale of the post of Book Binder consequent on anomalies arising in the pay scale as per recommendation of the 4th Pay Commission was examined by the D G E & T in consultation with the Ministry of Finance, but the proposal was not agreed to as intimated by the D G E & T vide their letter No. A-11014/1/89-TA-II dt. 26.3.1992 and the same was intimated to him vide this office Memo No. STARI/A-20023/1/83-Estt/MD/88/118 dt.27.4.92 (copy enclosed).*

The above impugned order dated 12.12.95 has been passed, as stated in that order, in compliance with the directions issued by this Bench in OA 733/90 dated 26.5.1995. In that earlier OA the applicant had approached this forum praying for similar reliefs. The Tribunal after a detailed discussion ordered as follows:-

"In view of the above discussion, the application is disposed of with the direction that the respondents shall dispose of the matter regarding upward revision of the pay scale of the applicant within a period of four months from the date of communication of this order. The respondents, after taking a decision, shall pass a speaking order which should be

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conveyed to the applicant within a period of one month thereafter. The respondents are also directed to grant in-situ promotion and also stagnation allowance to the applicant, as per rules within a period of three months from the date of communication of this order. We pass no order as to costs.*

2. The main grievance of the applicant is that though he has been appointed as a Binder under the control of the second respondent i.e., Director, Central Staff Training and Research Institute, Calcutta and has been working as such, the respondents have not given him the benefit of revision of his pay in terms of the recommendations made by the 3rd Central Pay Commission, the 4th Central Pay Commission and finally of the Inter Departmental Committee which was set up by the Government of India in accordance with the recommendations of the 4th Central Pay Commission.

3. The applicant has sought the following reliefs:-

- a) Direct the respondents to cancel and/or set aside and/or withdraw and/or quash the impugned rejection letter dated 12.12.1995 (Annexure A-3).
- b) Direct the respondents that the applicant is entitled to upward revision of pay scale of Rs.1320-2040/- as Highly Skilled Grade-I Book Binders with effect from 31.10.1989.
- c) Direct the respondents to give the consequential benefit of the upward revision of pay scale from 3rd Central Pay Commission of Rs. 320-400/- w.e.f. 4.6.73 upto 31.12.95 and then Rs. 1150-1500/- w.e.f. 1.1.96 to 30.10.99 and Rs.1320-2040/- w.e.f. 31.10.99 and so on, treating the applicant at par with his counter part i.e. special grade Book Binder (highly Skilled Grade-I) Binders of Govt. of India Press.
- d) Direct the respondents to pay the arrears of balance amount of the said benefit with effect from 4.6.73 i.e. the date of accrual to the date of actual payment alongwith all consequential benefits thereto and the actual fixation of pay scales stage by stage along with interest at the rate of 18% per annum from the date of such accrual to the date of actual payment.
- e) Any order and/or further order or orders as the Hon'ble Tribunal may deem fit and proper.*



4. The main case of the applicant is that in terms of the qualifications prescribed for appointment to the post of Binder in the Central Staff Training and Research Institute, Calcutta (the Institute for short) the qualifications prescribed for the post of Binder and the nature of duties and functions of that post are in no way ^{be} ~~lower~~ ^{than} ~~those~~ ⁴⁹ prescribed for the Binder Gr.I in the Government of India Press under the Ministry of Urban Development. The applicant has, ⁱⁿ particular, drawn our attention to the recommendations made by the Acting Director of the Institute which is found at page 84 dated 16.3.1988. We notice ^{from 49} that communication that the Acting Director has recommended that the scale of the Book Binder in the Institute should be revised and brought on par with ⁴⁹ that ^{of} the Book Binder Gr.I existing in the Government of India Press under the then Ministry of Works and Housing. The communication, which is inter-^{nal 49} and is addressed to the Director of Apprenticeship Training, also mentions ⁴⁹ the fact that the post of Book Binder ^{is 49} in the Institute ^{is 49} higher than ⁴⁹ that ^{of} the Workshop Attendant in terms of the duties, responsibilities and recruitment qualifications. The Workshop Attendant, we find, ⁴⁹ has been ^{49 described as 49} ~~belonging~~ belonging to the Grade B Staff in the same communication. This communication is found at Ann. A-9 of the OA.

5. The learned counsel for the applicant has argued elaborately ⁴⁹ that the post of Book Binder held by the applicant ^{49 is on par with that of} ~~that~~ Binder Gr.I in the Government of India Press which has been redesignated as Binder in conformity with the recommendation of the Inter-Departmental Committee which was set up by the Government of India in pursuance of the recommendations of the 4th Central Pay Commission. The OM incorporating the decision of the Government of India in the Ministry of Urban Development dated 30.12.90 on the report of the Inter-Departmental Committee on printing staff is found at Annexure A-10 of the OA. We observe from the first para of that OM that the

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recommendations of the Inter-Departmental Committee on printing staff which examined the various pay scales have been limited only to the pay scales of the printing posts in the Printing Presses under the Directorate of Printing and that the then scales of pay were revised with effect from 31.10.89 under the Annexure A-10 based on their recommendations ²⁹ as approved by the Govt. It is evident from that OM that ^{for the} the erstwhile post of Binder Gr.II which had already been classified as a skilled category post and where the scale of pay before the revision was 950-1400, the scale of pay of the post was revised to 950-1500. It is significant that as a part of the same order under that OM, that post of Binder Gr.II came to be redesignated as Bindery Assistant.

6. In para-2 of the same OM, the post of the Bindery Assistant in the presses of the Directorate of Printing, as distinct from the presses under the Directorate of Printing, has been dealt with and the ~~same~~ ^{the} post of Bindery Assistant, which had been classified earlier as semi-skilled, with the pre-revised scale of Rs.800-1500, was classified as a skilled post and the scale of pay was revised to Rs.950-1500. ^{As under Re 49} ~~the~~ same para-2, the status of the post of Binder Gr.I underwent certain changes and the post was upgraded from the skilled category to Highly skilled category and the scale of pay was revised from Rs. 1150-1500 to Rs.1200-1800. The OM also redesignated that post of Binder Gr.I as Binder.

7. The learned counsel for the applicant ^{AS} ~~was~~ strongly relied on this document to establish the claim of the applicant that he should be granted the relief of the revised scale of pay which was allowed in respect of the post of Binder Gr.I, which post was ~~redesignated~~ merely as ^a Binder in that OM at Annexure A-10. It is obvious that the entire set of reliefs sought by the applicant are based on this basic proposition.

8. The respondents on the other hand have clarified that the appointment to the post of Book Binder in the Institute is regulated in terms of the qualifications for appointment, duties and responsibilities attached ^{to} the post etc. by the provisions of the Recruitment Rules and other Administrative Instructions pertaining to that post. ^{while} Essentially,

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opposing the relief prayed for by the applicant, the respondents ^{are} ~~are~~ ^{law} relied on the fact that the erstwhile post of Binder Assistant, Binder Gr.II and Binder Gr.I, either under the Directorate of Printing and Stationary or in the Directorate of Printing and Stationary, ^{are} ~~are~~ were governed by separate Recruitment Rules and in terms of those Recruitment Rules, qualifications prescribed for appointment to those posts were not similar to ^{those} ~~the post~~ ^{is} which have been prescribed for the post of Book Binder in the Institute. The learned counsel for the respondents has also argued that the ^{intensity} ~~intensity~~ and quality ^{of work} ~~of work~~ performed by the various categories of Binders, either under the Directorate of Printing and Stationary or in the Directorate of Printing and Stationary, Government of India, are different and higher ^{than} ~~are~~ those prescribed for the Book Binder, where according to the respondents, the binding work is not a core activity of the organisation.

9. The learned counsel for the applicant has cited certain case laws laid down by the Hon'ble Supreme Court. In particular, he has sought to rely on the principle laid down by the Hon'ble Supreme Court in State of Haryana & Anrs. V/s. Ramchander & Anrs., reported in 1997(2) SCC (L&S) page 78. However, we are not convinced that the facts and circumstances of that case are similar to those in the present OA. It is obvious that in that case, the Government had already treated the concerned Teachers at par ^{while} ~~by~~ promulgating ^{the} ~~a~~ revised pay Rules. On the other hand, the case of the applicant in the present OA is that the benefit of revision of ^{the} ~~the~~ pay scale, right from the time that the 3rd Central Pay Commission gave its recommendation, had not been extended to the applicant. The learned counsel for the applicant has next ~~prayed~~ brought to our notice the principle laid down by the Hon'ble Supreme Court in State of Bihar & Ors. V/s. Bihar State Workshop Superintendents Federation and Ors., State of Bihar and Ors. V/s. Om Prakash, State of Bihar & Ors. V/s. Jagrup Singh, reported in S.C.S.R. 1950-1994 Vol.10 page 115 in Civil Appeal No.499/93 decided on 9.2.1993. The issue involved there was ^{disparity in} ~~the~~ the scales of pay for the Workshop Superintendents in various Engineering Colleges or Government Polytechnics under the same State Govt. The Hon'ble Supreme Court discussed the facts and circumstances of the cases, in which the above decision was rendered, and observed as follows:

"It cannot be denied that the All India Council for Education as well as all the other authorities were treating the posts of Workshop Superintendents as teaching posts and had fixed them in the pay-scale equivalent to Associate Professors. So far as educational qualifications are concerned, diploma holders with 8 years' experience as well as degree holders with five years' experience were eligible for such posts. So far as this category of respondents is concerned, it is a dying cadre and even if in terms, they are entitled to the grant of U.G.C. scale which can only be made applicable in case of teaching staff serving in the colleges run by the University, we find no justification so far as the respondents are concerned not to allow them the benefit of the pay-scales at least equivalent to the post of Assistant Professors.* We observe that in the present case the Government of India have not prescribed ^{the} identical qualifications for appointment to the post of Book Binder ^{as in} the Institute as well as to the post of Bindery Assistant, Binder Gr.II and Binder Gr.I, which ^{later} ~~that of~~ post^s have been either under the Directorate of the Printing and Stationery or in the Directorate of Printing and Stationery, under the erstwhile Ministry of Works and Housing. So it is difficult for us to see ^{how} the decision of the Hon'ble Supreme Court in the above case will be of much use for the applicant. At this stage, the learned counsel for the applicant seeks to rely on the decision of the Hon'ble Supreme Court in K.Krishnamacharyulu & Ors. V/s. Sri Venkateswara Hindu College of Engineering & Anrs., reported in Supreme Court Service Law Judgments, 1997(1) page 468. We observe that the issue involved ^{is} there was whether the private educational institutions, ^{where} the conditions of services were on par with those of the teachers in the Government Educational Institutions and the Management had paid the salaries on par with the Government employees, had a right to approach the judicial forum claiming the same benefits ^{as were} available to the teachers in the Government Educational Institutions. It is evident that the ^{main} issue involved there was the maintainability of the Writ Petition and the operative part of the decision of the ^{Hon'ble} Supreme Court is reproduced below:-

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"Since the appellants are insisting upon enforcement of their right through the judicial pressure, they need and seek the protection of law. We are of the view that the State has obligation to provide facilities and opportunities to the people to avail of the right to education. The private institution also is entitled to seek enforcement of the orders issued by the Government. The question is as to which forum one should approach. The High Court has held that the remedy is available under the Industrial Disputes Act. When an element of public interest is created and the institution is catering to that element, the teacher, the arm of the institution is also entitled to avail of the remedy provided under Article 226, the jurisdiction part is very wide. It would be different position, if the remedy is a private law remedy. So, they cannot be denied the same benefit which is available to others. Accordingly, we hold that the writ petition is maintainable. They are entitled to equal pay so as to be on par with Government employees under Article 39(d) of the Constitution."

10. Here again we find on the factual plane⁴² the observation of the Hon'ble Supreme Court is that the Management had paid the salaries to those teachers in the private educational institution on par with the Government employees earlier. We failed⁴⁹ to understand how given⁴³ that crucial circumstances in the above case and the position in the present OA, ~~were~~^{where 43} admittedly the pay scale attached to the Book Binder in the Institution⁴⁹ all along⁴³ different, the decision of the Hon'ble Supreme Court in the above case cannot⁴⁹ be held as applicable in the facts and circumstances of the present case. The learned counsel for the applicant has also relied on the principles laid down by the Hon'ble Supreme Court in Dordarshan Cameramen's Welfare Association Vs. Union of India & Ors. and also in⁴⁹ Y.K. Mehta & Ors. V/s. Union of India & Anrs., A. Kamal Batcha & Ors. V/s. Union of India and Anrs., Devendra Sharma & Ors. V/s. Union of India & Ors., ~~and~~⁴⁹ ~~and~~⁴⁹ ~~and~~⁴⁹ these two latter judgments, in Supreme Court Service Rulings, 1950 - 1994, Vol. 10 at pages 341 & 370 respectively. In the first case, ~~it is held~~⁴⁹ that, ~~in~~⁴⁹ Dordarshan Cameramen's Welfare Association V/s. Union of India & Ors., the Hon'ble Supreme Court has referred to an earlier decision dated 26.8.86 under which it was held that the Staff Artists of Dordarshan including the

petitioners therein were Government servants like their counterparts in the Films Division, that they performed the same duties as those of their counterparts in the Films Division, that the Sound Recordists in Dordarshan were equivalent to Recordists in the Films Division, that the Cameramen Gr.II in Dordarshan were similar to Cameramen in Films Division and that the Lighting Assistant/Lightmen in Dordarshan were comparable with Assistant Cameramen in Films Division. The Supreme Court in the operative part of that order has directed that the petitioners therein who occupied the posts belonging to the categories of Sound Recordist, Cameraman Grade II, and Lighting Assistant/Lightman in Dordarshan, shall be given the pay scales admissible to their counterparts in the Films Division including the arrears as ordered in the previous decision.

11. It is obvious that the ratio applied in the above judgment of the Hon'ble Supreme Court is based on an earlier declaration that these posts in Dordarshan were equivalent in terms of the nature and quantum of work being performed by their counterparts in the Films Division. No foundation has been laid in the present case to establish that the Book Binder in the Institute does the same nature and quantum of work as being done by a Bindery Assistant, Binder Gr.II or Binder Gr.I, under or in the Directorate of Printing and Stationary of Government of India.

12. The learned counsel for the applicant has also challenged the impugned order on the ground that it does not amount to a speaking order. The impugned order obviously is not a speaking order; it merely states that earlier the matter had been considered and that the reply has already been sent to the applicant. The operative part of the impugned order has already been cited by us above. Along with the reply statement, the respondents have furnished a copy of the earlier order referred to in the impugned order. That order is dated 27.4.92 and states as follows: "With reference to his application dated 12.4.89 regarding certain anomalies arising in the pay scale, Shri M.R.Das, Book Binder, CSTARI, Dasnagar, Howrah is hereby informed that his case/representation has been referred/forwarded to the DGE&T and that has not been

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agreed to". The applicant has effectively challenged the order finally passed by the Director of the Institute dated 12.12.95 at Annexure A-3. We have chosen to deal with the merits of the contentions urged on behalf of the applicant and the merits of the position taken by the respondents in defence of their action of rejecting the representation made by the applicant. We do not consider it necessary to refer the matter back again to the Director of the Institute only on the technical ground that Annexure A-3 does not amount to a speaking order. It is not necessary for us to deal with this point any further.

13. The learned counsel for the respondents on the other hand have relied on the decision of the Principal Bench, New Delhi of C.A.T. in OA 1578/94 decided on 21.9.99, R.P. Singh & Ors., V/s. Union of India & Ors. We find that the ratio decidendi of that order is clearly attracted in the present case. In the case, decided by the Principal Bench mentioned above, the Book Binders Gr.II and Gr.I in the Ministry of Water Resources under the same Government of India had preferred a claim for the higher pay scales as were given to their counterparts in other Ministries that was rejected on the ground that the two groups of employees were not governed by the same Rules, the first group i.e., applicants therein being non-industrial employees and governed by the CCS Rules and the Binders and Bindery Assistants in other Ministries being industrial employees and governed by the Industrial Rules under the Factories Act. The Principal Bench held that the applicants were not similarly placed as the Binders/Bindery Assistant in other Ministries and other Departments, particularly in respect of the method of recruitment, qualifications etc. as well as prospects of promotion horizontally and vertically. The Principal Bench of the Tribunal here has discussed the principle laid down by the Hon'ble Supreme Court in the case of Randhir Singh Vs. Union of India & Ors., reported in AIR 1982 SC 877, and the principles laid down by the Apex Court in the case of State of U.P. & Ors. V/s. J.P.Chaurasia & Ors., reported in 1989 SC (L&S) 71 and the earlier decisions including the Randhir Singh and Bhagwan Das Vs. State of Haryana, reported in 1987(4) SCC 632. The Principal Bench



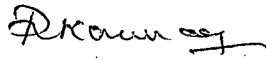
has quoted in particular the doctrine laid down by the Hon'ble Supreme Court, in this context ^{as it be} ~~may~~ ^{be} useful, in our opinion, to reproduce them here:

"The quantity of work may be the same but quality may be different and that cannot be determined by relying upon ^{the} ~~the~~ different averments in affidavits of interested parties. The equation of posts and equation of pay must be left to the executive government. It must be determined by expert bodies like Pay Commission. They would be the best judge to evaluate the nature of duties and responsibilities of posts. If there is any such determination by a Commission or Committee, ^{as} the Court should normally accept it. The court should not try to tinker with such equivalence unless it is shown that it was made with extraneous consideration."

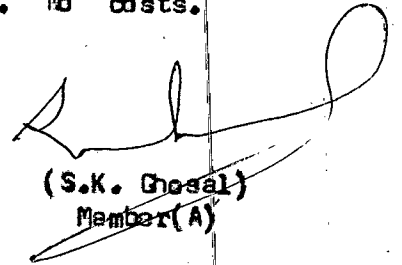
After discussing the principles ^{laid} ~~laid~~ down in those cases, the Principal Bench has observed as follows: "Applying the law laid down as elaborated by us in paras 7 and 8(A) to (D), we are required to see if the applicants are similarly placed in respect of qualifications at the entry point i.e., minimum educational qualifications including technical ones, as well as qualitative aspect of their jobs. It has been laid down that while enforcing the principles of equal pay for equal work the method of recruitment, amongst others, is also to be examined. As per records available as well as the oral submissions made by the learned counsel for the applicants, we do not get any reliable details on the basis of which it could be concluded, without any shadow of doubt, that the applicants are similarly placed with those in other Ministries/ departments particularly in respect of method of recruitment, qualifications etc. as well as prospects of promotion-horizontally and vertically." In the present case it is evident that at the time of appointment, the qualifications, particularly ^{the} technical ones, prescribed under the recruitment rules ^{for} the post of Book Binders ⁱⁿ the Institute are distinct and different from those which are prescribed under the Recruitment Rules for the post of ^{Assistant} Binder Gr.II and Binder Gr.I, in and under the Directorate of Printing and Stationary of ^{the} Government of India. We are, therefore, of the considered view that the applicants in the present OA cannot be

held as similarly placed as the latter categories, in or under the Directorate of Printing and Stationary, Government of India. We hold, therefore, that the principle of equal pay for equal work is not attracted in the facts and circumstances of this case.

14. In the light of the discussion made above, we do not find any merit in the OA and we reject the same. No costs.



(P.C. Kannan)
Member (J)



(S.K. Ghosal)
Member (A)

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