

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH : PATNA

Date of Decision:- 6.9.2001

Registration No. OA-94 of 1996

Shri Sidheshwar Prasad Pardeshi, Son of Late
L.M.Nath, presently posted as Hindi Translator in
Labour Welfare Organisation, Government of India,
Ministry of Labour, Karma

... Applicant

- By Shri A.K.Mishra, Advocate

Versus

1. Director General, Labour Welfare Organisation,
Government of India, Ministry of Labour,
Jaiselmer House, Single Storey Hutments,
Mansingh Road, New Delhi.
2. Under Secretary to the Government of India,
Ministry of Labour, Jaiselmer House Single
Storey Hutment, Mansingh Road, New Delhi.
3. Welfare Commissioner, Labour Welfare Organisation,
Bihar, Karma, P.O. Jhumaritilaiya, District
Kodarma.
4. Administrative -cum-Accounts Officer, Labour
Welfare Organisation, Bihar, Karma, P.O. Jhumari-
Tilaiya, District Kodarma.
5. Welfare Administrator, Labour Welfare Organisation,
Bihar, Karma, P.O. Jhumaritelaiya, District
Kodarma

... Respondents

-By Shri V.M.K.Sinha, Sr. Standing Counsel

Corma:- Hon'ble Shri Lakshman Jha, Member (Judicial)
Hon'ble Shri L. Hmingliana, Member (A))

ORDER

Hon'ble Shri Lakshman Jha, Member (Judicial):-

1. The applicant was initially appointed as Adult Education Instructor on 15.11.1960 and he joined at Dharway in the district of Hazaribagh, under Labour, Welfare Organisation, Government of India.

He was transferred to a Multi-purpose Institute at Sankh in the same district. Thereafter, he was made Headmaster of Middle School, Sankh. He was transferred to a Multi-Purpose Institute at Sappi in the same district in the year 1969 and worked there for ^{till} / about a year, i.e. / 1970. He was interviewed for the post of Headmaster. He had not B.Ed. Degree and, therefore, he ^{he} was granted study leave and / acquired B.Ed. degree in 1971-72. He represented for promotion to the post of Headmaster of a Middle School on 25.3.75. But of no avail. Some of his Juniors ~~working~~ as Adult Education Instructors were given promotion to the post of Headmaster, Middle School ignoring the claim of the applicant. It is further case of the applicant that the Welfare Commissioner vide his order No.1594 of ^{revised} 1991 allowed / pay scale to the other teachers of the organisation, but the applicant has been denied revised pay scale due to mala fide intention of the respondents. The revised pay scale as prepared by the Respondents is at Annexure-A-6. The applicant represented before the concerned authority vide Annexure-A-7 for grant of the benefit of pay fixation in accordance with the reports of 2nd, 3rd and 4th Pay Commission Report as per the order passed by the

Welfare Commissioner vide Annexures-A-4/A and A-6, but of no avail. Hence the prayer is for directions to the Respondents (i) to implement Annexures-4, 4/A, 5 and 6, by which the benefits of revised pay scales accrued to the applicant with effect from 1.1.63 and onwards; (ii) for commanding the Respondents to promote the applicant to the post of Headmaster on any vacant post with ~~all~~ revised scales which accrued after recommendations of 2nd, 3rd and 4th Pay Commissions' reports with effect from 1.1.63 onwards; (iii) for any other relief or reliefs

2. The Respondents have resisted the claim of the applicant. It is stated that the grievance of the applicant was forwarded to the Ministry of Labour, Government of India, for consideration and the decision is pending with the Ministry and, therefore, the application is premature. It is further stated that the applicant was holding the post of Adult Education Instructor and not as a trained teacher. As per provisions of Recruitment Rules, there was no channel for promotion from the post of Adult Education Instructor to the post of Headmaster. The feeder post for promotion to the Headmaster is trained teacher. It is denied that the applicant is entitled to get the pay scale of trained teacher from 1.1.63 as per the order of the Welfare Commissioner vide order No.1594 of 1961 as he was holding the post of Adult Education Instructor upto 30.12.1977 ~~i.e.~~ before redesignation of the post as trained teacher with effect from 31.12.77 vide Ministry's letter

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dated 19.11.90. The recommendation of ex-Welfare Commission to allow the applicant the scales of pay as per the recommendations of 2nd and 3rd Pay Commissions' report are said to be not in conformity with the Rule 42 of G.F.R. In any view of the matter the applicant is not entitled to the pay scale of trained Teachers from the date before 31.12.77.

3. Heard Shri A.K.Mishra, counsel for the applicant and Shri V.M.K.Sinha, Senior Standing Counsel for the respondents and perused the record.

4. It is admitted position that the ex-Welfare Commissioner recommended to the Government of India to redesignate the applicant as trained Teacher with effect from 1963 and for fixation of his revised pay scale with effect from 1.1.63. It is also not denied that the pay scale of Adult Education Instructor at the time of initial appointment was higher than that of the trained teacher. It is also admitted that the applicant was declared trained Teacher with effect from 1977, and, in the meantime, in 1991-92, he acquired B.Ed Degree also. The then Welfare Commissioner, Shri S.R. Satyarthi, recommended to the Government of India to declare the applicant as trained Teacher with effect from 1.1.63, 1.1.73 and 1.1.86, and allowed scales of pay as admissible. The Welfare Commissioner,

giving details of the case of the applicant again wrote to the Director, Government of India, Ministry of Labour for consideration of refixation of his pay as

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recommended by him vide Annexure-A-1/A dated 4.2.1993. Admittedly, the recommendations of the Welfare Commissioner are pending with the Ministry. The written Statement filed on behalf of the respondents is without verification by a competent authority. Annexure-R-1, regarding Rule 42 of GFR does not appear to have been annexed to the Written Statement as stated above. The office Registrar is directed to obtain explanation from the concerned Clerk as to how the Written Statement was accepted without verification by the competent authority. However, the applicant has not raised objection on this ground and, therefore, we have proceeded in the matter on the basis of the unverified W.S. filed on behalf of the Respondents.

5. Before we part with, we would like to point out that the ex-Welfare Commissioner, Shri S.R. Satyarthi, recommended the case of the applicant for the revised pay scales as per the recommendations of 2nd, 3rd and 4th Pay Commissions' reports with effect from 1.1.63, 1.1.73 and 1.1.86 as applicable to trained Teachers and further directed for refixation of his pay accordingly by Head Office vide Annexure-A-4A. Some of the trained teachers were also allowed the benefit of refixation of pay with effect from 1.1.63 vide Annexure-A-5 and refixation of pay of the applicant on the basis of the aforesaid recommendation of the Welfare Commissioner was also calculated vide Annexure-A-6. But the office never implemented the aforesaid order of the Welfare Commission

who is said to have financial powers in the matter. The applicant filed representation vide Annexure-A-7 series before the Labour Commissioner which is still pending with the Ministry.

6. Considering the aforesaid facts and circumstances of the case we dispose of this OA with directions to the respondents, particularly the Respondent No.1 and the Respondent No.2 to take decision on the basis of the recommendations of the Welfare Commissioner as at Annexure-A-1A and to pass a reasoned order within three months from the date of communication of this order. The order passed by the respondents shall be communicated to the applicant within a month thereafter. The applicant shall ^{be} at liberty to take proper action in accordance with law, if his grievance is against that order. The OA is accordingly disposed of. There shall be no order as to costs.

SKS

(L. Hmingliana)
Member (A)

(Lakshman Jha)
Member (J)