

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400 614

OA NO. 45/87

Shri R.P.Puniyani,
Senior Physiotherapist,
General Secretary, IRPA,
Central Railway Flat No.
MS/RB/III/129/17,
Wenden Avenue,
Matunga,
Bombay 400 019.

Applicant

v/s.

Union of India
through
The Secretary,
Railway Board,
Ministry of Transport,
Department of Railways,
Rail Bhawan, New Delhi.

Respondent

CORAM: Hon'ble Member (A) Shri P.Srinivasan
Hon'ble Member (J) Shri M.B.Mujumdar

Appearances :

Applicant in person

Shri Mohan Sudame
(for Shri D.S.Chopra)
Advocate
for the Respondent.

ORAL JUDGMENT

Dated: 15.6.1988

(PER: P.Srinivasan, Member(A))

The applicant is a Senior Physiotherapist in the Central Railway Hospital at Byculla. He has filed this application also in a representative capacity on behalf of all Physiotherapists and Senior Physiotherapists working in Railway hospitals all over India. There are a number of prayers set out in a rambling manner in this application. The main grievance of the applicant is that though Senior Physiotherapists in Railway Hospitals shoulder the same responsibilities and carry out the same

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duties as Senior Physiotherapists in the Central Government Health Service and in Civilian Defence Hospitals, they have been discriminated against in the matter of pay scales. The contention is that Senior Physiotherapists in railway hospitals should be given the same pay scales prior to the implementation of the recommendation of the Fourth Pay Commission as Sr. Physiotherapists either in the Central Government Health Service or in Civilian Defence Hospitals and the corresponding revised scales on and after 1.1.1986 as recommended by the Fourth Pay Commission.

2. Shri Puniyani who argued the case personally submitted that the railway administration had accepted the contention that Senior Physiotherapists in railway hospitals carry on the same duties and shoulder the responsibilities as the corresponding officials in the Central Government Health Service but repeated recommendations on this basis made by the railway administration had been turned down by the Finance Ministry on the ground that if higher pay scales were given to Physiotherapists in railway hospitals it would have repercussions on the pay scales of similar posts in Lok Nayak JP Hospital, Goa Medical College etc. Shri Puniyani submits that this is not a relevant consideration. What is relevant is whether the duties and responsibilities of Senior Physiotherapists in the Railways are the same as those of their counterparts in the Central Government Health Service; if they are, on the principle of equal pay for equal work and the rule of equality laid down in Article 14 and 16 of the Constitution, they should be given the same pay scale. He, therefore, submits that the decision

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rendered in their cases by the Finance Ministry denying their claim, being based on irrelevant considerations, should be quashed and respondents be directed to give the applicants the same pay scales as the corresponding officials in the Central Government Health Service.

3. Shri M.Sudame (for Shri D.S.Chopra) Advocate for the respondents refuted the contentions of Shri Puniyani. He admits that the railway administration had at various times recommended the same pay scale for Physiotherapists in the Railway as that of Senior Physiotherapists in the Central Government Health Service. But these were only recommendations which, after due consideration, had been rejected by the Ministry of Finance. The applicant cannot base his claim on such recommendations. There were policy considerations involved as for e.g. that the pay scale of Physiotherapists had to be lower than the initial pay scale of doctors, whose orders the former had to carry out. He also contended that this Tribunal is not competent to compare the duties of officials in one department with those of others in other departments, because the matter is too complicated to be decided by a Court. He, therefore, submitted that the application be dismissed.

4. We have considered the matter carefully. We must agree with Shri Sudame that we are not competent to assess the job content and responsibilities of the officials of the railway vis-a-vis those officials in other departments. However, we cannot fail to notice that the railways themselves have repeatedly, upto the level of the Minister, recommended the case of their Senior Physiotherapists

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for an equal pay scale with that of their counterparts in the Central Government Health Services on the ground that the duties and responsibilities of both were the same. Surely the railway administration is competent to make such a comparative evaluation. While considering a claim for equality of pay scales, the only relevant consideration is whether ~~their~~ ^M duties and responsibilities of the officials claiming such equality are in every way equal to those with whom they claim equality. It is no answer to such a claim to say that giving a higher pay scales to one class of officials on this basis would have repercussions elsewhere. The Supreme Court has in several recent decisions applied the principle of equal pay for equal work which, though it appears in the Directive principles of State Policy is also an essential element of the rule of equality enshrined in Articles 14 and 16 of the Constitution. We may here also refer to the observations of the Fourth Pay Commission that "employees of the Central Government in different branches should be paid equally if their work was adjudged to be of equal value." On the basis of this recommendation also, it is the duty of the railways and the Ministry of Finance which has to clear the proposal - to assess the duties and responsibilities of the applicants vis-a-vis those in the Central Government Health Service. Though the railways seem to have made such an assessment, the Ministry of Finance to whom the matter was referred for clearance did not examine the claims of the applicant from that angle. We therefore direct the respondents - both the Railways and the Ministry of Finance - to undertake such a comparative evaluation now and if they find that the duties and responsibilities of Senior Physiotherapists in the Railways are equal in every respect to those of

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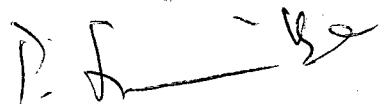
similar officials in the Central Government Health Service or in Civilian Defence hospitals then to give to the former the same pay scale as that of the latter without going into such irrelevant considerations as to whether it will have repercussion on other institutions.

5. Another submission in this application is that errors had cropped up in the case of applicants while implementing the recommendations of the Second Pay Commission and that these should be rectified. Shri Puniyani submits that the Fourth Pay Commission itself undertook the correction of such errors. But in the case of the applicants this had not been done. Unless such an exercise is undertaken in this regard by the respondents in the first instance, it will not be possible for this Tribunal to identify the nature of the dispute between the parties and give its decision thereon. The applicants will now submit their claims in this regard to the respondents who are directed to examine them and convey their decision thereon to the applicants, as early as possible.

6. The other grievances in this application - that Senior Physiotherapists in the Railways should be given the status of Group 'B' officials and that the scale applicable to Physiotherapists should also suitably revised - are incidental to the main grievance discussed above and should therefore also be simultaneously looked into by the respondents. While doing so, the respondents will give the applicants an opportunity of putting forth their case.

7. The application is disposed of on the above terms but in the circumstance of the case parties to bear their own costs.


(M.B. MUASUMDAR)
Member (J)


(P. Srinivasan)
Member (A)