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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 702/87

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DATE OF DECISION 1/3/93

Smt. Harsha Ghildyal Petitioner

Shri G.S. Walia Advocate for the Petitioners

Versus

Union of India & 3 Others. Respondent

Shri R.K. Shetty Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri JUSTICE S.K. DHAON, VICE CHAIRMAN.

The Hon'ble ~~Shri~~ Ms. USHA SAVARA, MEMBER (A).

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

} No.

Usha Savara
(USHA SAVARA)
MEMBER (A).

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(10)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY.

O.A.702/87.

Smt. Harsha Ghildyal,
Librarian Grade III,
Advanced Training Institute,
Sion, Bombay --400 022.

.. Applicant.

Vs.

1. Union of India, through
Director General, Directorate
General of Employment and training,
Shram Shakti Bhavan,
New Delhi - 110 001.
2. Director General, Directorate
General of Employment and Training,
Shram Shakti Bhavan,
New Delhi - 110 001.
3. Director of Training, Directorate
General of Employment and Training,
Shram Shakti Bhavan,
New Delhi - 110 001.
4. Director, Advanced Training
Institute, Sion Trombay Road,
BOMBAY - 400 022.

.. Respondents.

Coram : Hon'ble Shri Justice S.K. Dhaon, Vice Chairman.
Hon'ble Ms. Usha Savara, Member (A).

Appearances:

1. Mr.G.S. Walia, Counsel
for the applicant.
2. Mr.R.K. Shetty, Counsel
for the respondents.

JUDGMENT :

Date : 1/3/93

{ Per : Hon'ble Ms. Usha Savara, Member (A) }

The applicant who is employed as Librarian Gr.III in the pay scale of Rs.425-700, revised to Rs.1400-2300 as a result of recommendations of Fourth Pay Commission, has sought the following reliefs:

- (a) This Hon'ble Tribunal may be pleased to grant parity of pay scales to the applicant in parity with the Librarians of Delhi Administration and Librarians of Calcutta, who are also working under the Respondents.

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- (b) This Hon'ble Tribunal may be pleased to hold and declare that the applicant is entitled to all the equal treatments in respect of pay scales as applicable to the Delhi Administration and Calcutta and also will be pleased to grant consequential benefits thereof with regard to arrears of salary and increments thereof;
- (c) This Hon'ble Tribunal will be further pleased to order and direct the Respondents to place the applicant in pay scale of Rs.1600-2900(RPS) as a result of the recommendation of the IVth Pay Commission.

2. A reply has been filed by the respondents. The undisputed facts are that the applicant, who is B.Sc. and Bachelor of Library Science, was recruited in service as Librarian Gr.III on 19.5.1970. By circular dated 26.5.1979, the pay scales of Librarians working under the Directorate of Training and Technical Education (D.T.T.E.) for short) Delhi Administration were revised (Ex.A) in accordance with the recommendations of the 3rd Pay Commission given in para 66 of Vol. I, Chapter-20. Para 66 runs as under:

"Librarians in the schools under the Delhi Administration etc.

Para 66: As we have mentioned while dealing with a common category of teaching and other educational staff, the pay scales of such Librarians should be fixed after taking into account the existing parity or relativity with the teaching staff in whose proximity the Librarians function (P.236)."

As a result, the instructional staff working in Bombay were given parity in pay scales and other benefits with the instructional staff of Delhi Administration, and the Librarians working in Delhi Administration were also given parity of pay scales with the instructional staff under Delhi Administration. The Librarians working in

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Bombay, however, were neither given parity of pay scales with the instructional staff working in Bombay nor with the Librarians of Delhi Administration. The representations made by the applicant were rejected on various grounds. The 1st ground was that the revision of pay scales effected in the I.T.I. under Delhi Administration did not include the post of Librarians as being a post in the industrial category. It was also pointed out that the Central Staff Association of the Directorate General of Employment and Training, Calcutta, who represents the interests of all Class III and Class IV staff had not suggested any equation of the post of Librarian, with any other post in instructional category. It was also explained that the post of Librarian under CTIs cannot be categorised as instructional, and the scale of pay given to instructional posts cannot be given to the librarians. Further, U.G.C. recommendations are mainly applicable to colleges and universities, and cannot be made applicable to institutions under D.G.E.&T. (Ex.E). Admittedly, the scale of pay for certain posts of librarians under the D.T.T.E., Delhi Administration was that applicable to the teaching/instructional staff, but those scales were personal to the incumbents, and for the future recruits i.e. after 1.1.1973, the scales of pay for the post of Librarians were to be determined in consonance with the 3rd Pay Commissions recommendations. The applicant made further representations asking for revision of her pay scale in par with Delhi Administration as recommended by the 3rd Pay Commission; to accord parity of the post of Librarian with that of Instructional Staff under D.G.E.T., and upgrading of the post from Grade III to Grade II. She was informed by letter dated 6.1.1987 by the Director that the matter was pending with the 4th pay Commission and the final decision would be communicated to her. However, it is contended by the applicant, that her pay had already been revised by the Fourth Pay Commission, and the respondents, did not apply their mind to her representations and gave an

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irrelevant and evasive reply. Hence, she has been compelled to file this application.

Shri Shetty, learned Counsel for the respondents raised a preliminary objection that the claim was barred by limitation as the applicant wanted revision of her scale of pay from 27.5.1970. Further, the Tribunal had no jurisdiction to entertain a claim dating back to 27.5.1970.

On merit, Shri Shetty submitted that the circular dated 26.5.1979 was applicable to different categories of Librarians working under the Delhi Administration, and was not applicable to the applicant, who is working under the 4th respondent i.e. Director, A.T.I., Bombay. It was stated that the applicant had already been informed in 1981 that though the matter of revision of pay scale had been taken up with the concerned Ministry, but the same could not be allowed for good, sound reasons. Shri Shetty produced zerox copy of the note sheet of the Ministry of Finance, Govt. of India, bearing the dates 29.1.1975 and 21.4.1981. He also produced zerox copy of the letter dated 16.3.1985 addressed to the 4th Pay Commission by the Ministry of Labour, Govt. of India seeking re-fixation of scales of pay to the Librarians under D.G.E.&T. According to him, the respondents have been in correspondence with the Ministry of Finance for giving higher scale to the Librarians under D.G.E.&T., but the Ministry could not decide the issue and referred it to the 4th Pay Commission. The applicant has been given the revised scale as recommended by the 4th Pay Commission, and in view of this, the application be dismissed as being devoid of merit. Shri Shetty relied upon the judgment of the Hon'ble Supreme Court in the case of Delhi Veterinary Association Vs. Union of India and Ors. 1989 SCC (L&S) and the judgment of the Hon'ble Supreme Court in the case of State of U.P. Vs. O.P. Chaurasia and Ors. 1988 111 SVLR (L) 243, as well as the judgement of Gujarat High Court in the case of C.S. Patel

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and ors. Vs. State of Gujarat and Ors. reported in AISLJ 1992 Vol. 45 Part III Page 102. Shri Wallia, learned Counsel for the applicant placed reliance upon the case of Miss Khatija V. Thanawalla Vs. Union of India & Ors. decided by the Bombay Bench of the Tribunal on 24.8.1987.

We have heard the learned Counsel, and perused the citations on which they have relied. Though the applicant has claimed parity with the Librarians working under Delhi Administration, or the Librarians working in Calcutta no material has been produced before us to show that the post in which she is working is identical to the post of the Librarians under the Delhi Administration. To claim equal pay for equal work, it must be adequately proved that the duties and responsibilities of the jobs are comparable - it is not enough that the nomenclature is the same, the quality of work performed must be the same. The doctrine of equal pay for equal work can only be applied where employees are equal in every respect, but they are denied equality in matter relating to the scale of pay. While considering the question of application of principle of equal pay for equal work, it has to be borne in mind that it is open to the State to classify employees on the basis of qualifications, duties and responsibilities of the posts concerned. If the classification has reasonable nexus with the objective sought to be achieved, efficiency in the administration, the state would be justified in prescribing different pay scales. Even if the duties and responsibilities are the same, but if the educational qualifications prescribed for the two posts are different, and there is difference in the measure of responsibilities, the principle of equal pay for equal work will not apply. In the case before us, the employees are different, and no effect has been made to compare the duties, responsibilities, and educational qualifications of the applicant with the duties, responsibilities and educational qualifications of the

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Librarians working under Delhi Administration or Calcutta. In short, the applicant has failed to demonstrate discrimination. In the circumstances, the principle of equal pay for equal work cannot be enforced in abstract. The case of Miss Khatija Thanawalla does not help the applicant, as in that case, it was demonstrated clearly that the posts were identical in all respects.

Before parting with the case, we must refer to the judgment of the Apex Court in the case of K. Vasudevan Nair & Ors. AISLJ Vol. 37, Part III, which has held that the equation of posts or equation of pay must be left to the Executive Govt. 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. The Court should not try to tinker with such evaluation unless it is shown that it was made with extraneous consideration.

In view of the above discussion, we cannot accept the application, and the same is, accordingly, dismissed. There is no order as to costs.

Usha Savara
1.2.93
(USHA SAVARA)
MEMBER (A).

S.K. Dharon
(S.K. DHARON)
VICE CHAIRMAN.

H.