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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.518/87

T.R.Suryanarayanan,
General Secretary,
D.G.I. Employees Union,
D.G.I. Complex, Vikhroli,
Bombay - 400 083.

.. Applicant

-versus-

Union of India & 3 Ors.

.. Respondents

Coram: Hon'ble Shri B.S.Hegde, Member(J)

Hon'ble Shri M.R.Kolhatkar, Member(A)

Appearances:

1. Mr.Hariharan with
Mr.Ramesh Ramamurthy
Advocate for the
Applicant.
2. Mr.P.M.Pradhan
Counsel for the
Respondents.

JUDGMENT:

(Per M.R.Kolhatkar, Member(A))

Date: 31.10.95

In this O.A. filed u/s.19 of the A.T.
Act the relief claimed is to issue directions
to the respondents to bring the pay scale of
Junior Scientific Assistant(JSA) Gr.II(IIIrd Pay
Commission Rs.380-560; IVth Pay Commission
Rs.1320-2040) on par with that of JSA Gr.I
(IIIrd Pay Commission Rs.425-700; IVth Pay
Commission Rs.1400-2300) and to merge the grade
of JSA II with JSA I and abolish the grade of
JSA II)

2. The applicant who is the General Secretary
of the D.G.I. Employees Union, Bombay contends that
the nature of duties performed by the Scientific
Assistants belonging to both the Grades is similar
i.e. testing of the various samples allotted to them
through internal forwarding notes issued by the
group officer concerned. The claim is therefore
based in the first instance on the doctrine of

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"equal pay for equal work." Secondly the claim is also based on discrimination of similarly placed employees in the Directorate of Marketing and Inspection. It is stated that Directorate of Marketing and Inspection suggested to IVth Pay Commission merger of the grades of Laboratory Assistants in the old pay scale of Rs.380-560 to that of Junior Chemist in the scale of Rs.425-700 on the ground of comparable duties and this was accepted by IVth Pay Commission.

3. Respondents have opposed the prayers of the applicant. According to respondents JSA-I and II are two different grades for which Recruitment Rules are also different. The Recruitment Rules have been changed from time to time and the situation is as below :

	<u>Prior to 4-10-85</u>	<u>After 4-10-85</u>
<u>JSA I</u>	M.Sc. or Degree in Tech/Engg. <u>O R</u> Diploma in Tech/Engg. with 2years experience <u>OR</u> B.Sc. with 2 years experience.	Degree in Engineering or equivalent or Master Degree in Science or Diploma in Engineering with two years' experience in the field.
<u>JSA II</u>	B.Sc. or Diploma in Tech/Engg.	Diploma in Engineering or equivalent or Degree in Science."

Recruitment Rules as on 4-10-85 have been further superseded by the fresh ones as published in SRO/194/92 as below:

"JSA-I: The persons must hold Degree in Engineering or Master Degree or Diploma in Engineering with two years experience in the relevant field or Degree in Science with 2 years experience, and the mode of appointment and promotion would be, promotion failing which by Direct recruitment and in so far as JSA II cadre is concerned, the minimum qualification requirement is that the persons must possess Diploma in Engineering or equivalent or Degree in Science and the mode of appointment to the said post is, out of the available vacancies,

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10% vacancies are to be filled in by promotion failing which by direct recruitment and 90% vacancies by direct recruitment.

According to respondents recruitment rules would clearly show that the cadre of JSA-I is a promotional one through the cadre of JSA-II.

4. The duties and responsibilities of the two grades are also different. They are not codified in the recruitment rules but are formulated by the administrative authority and are indicated in the Annexures R-I and R-II to the written statement dt. 4-7-1993 which are reproduced below:

"Duties of Junior Scientific Asstt.Gr.I

1. Plan and coordinate the work of the JSA II, Lab Atttdt, Lab Asstt. & other junior staff;
2. Take on the spot decision during the course of work within established techniques and procedure laid down;
3. Liaise with the Head of the Section and other people in different Sections;
4. Study and interpret Drawings and specifications acceptance schedules and test results;
5. Scrutinise and comment on IS & JS specifications
6. Check the reports and returns compiled by junior staff
7. Carry out testing of critical components subjecting them to various tests
8. Analyse chemicals, alloys, oil, greases and lubricants, explosives, petroleum products etc.
9. Carry out non-destructive and destructive tests.
10. Evaluate indigenous samples for import substitution.
11. Purification and maintenance of microbiological cultures
12. Help senior staff and developmental work to achieve indigenisation.
13. Deliver lectures on Scientific subject on part of training programme
14. prepare precis for the topics
15. Work under limited supervision of SSA/JSO/SSO II

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Duties of Junior Scientific Asstt.Gr.II

1. Carries out testing/evaluation of routine samples.
2. Analyses chemicals and materials, does microbiological testing of drugs, antibiotics, petroleum products etc.
3. Assesses number of samples to be drawn for testing/proof.
4. Prepare re-agents and standard solutions
5. Inspect and test measuring instruments, gauges, hand tools.
6. Does calibration of instruments.
7. Carries out cross-checking of test results of other co-workers.
8. Assists the senior staff in developmental work connected with ~~indigenisation~~ indigenisation and creation of new test methods.
9. Maintains test results register, calibration register, log books, work sheets, load charts etc. "

According to the respondents both the grades are meant for testing equipments for quality assurance purpose, they stand at different pedestals and JSA I is expected to exhibit proficiency of higher degree qualitatively and quantitatively than JSA II. The equipments tested are also different and quality also varies.

5. The respondents contend that comparison of the case of the applicant with the merger of the grades of /Laboratory Assistant and Junior Chemist of the Directorate of Marketing and Inspection has no relevance in the present case, and there is no discrimination.

6. Respondents further contend that the subject pyramid of JSA II is not decided immediately on his appointment but only after sometime and that too after assessing his performance, suitability, aptitude and experience by the ASHSP on the recommendation of the concerned establishment, where JSA I is considered as specialised in his subject as he has

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a specific subject pyramid on the date of his promotion. Respondents contend that the scales of pay have been framed by the Govt. on the basis of the recommendation of IVth Pay Commission which in its turn has taken into consideration all the relevant facts, and therefore there is no need for the Tribunal to interfere.

7. The Tribunal by its order dated 23-11-1994 considered that the matter required deeper consideration and therefore issued following directions:

"3. By the order sheet dt. 29-1-1993 certain directions were issued for producing certain documents for enabling the Tribunal to come to a conclusion as to whether the nature and quality of work performed by J.S.A. I and II are the same. On 22-2-1993 it was observed that the averments made by either side were too general and the question to be decided was whether there is similarity of duties and responsibilities of JSA Gr.I and JSA Gr.II and further time was granted for filing detailed affidavits. Certain affidavits were filed thereafter. On August 10, 1994 time was granted for completing the work of inspecting the documents and for filing additional affidavits. The relief to be granted to the applicants would depend upon a consideration of the nature of duties they are performing and after ascertaining whether they are substantially same as those which are performed by JSA Gr.I. Mere production of the duty lists without additional material will not suffice and it will be necessary to go into several factors bearing upon the question of identity of duties to be performed. This is the job best left to an expert body.

4. After hearing the learned counsel, we direct the respondents to appoint an expert body comprising of Director General of Quality Assurances, Staff Inspection Unit of Ministry of Finance and Deputy Chief Scientific Officer. This body shall give an opportunity

to the parties to place their submissions before them in writing or orally and after making a proper evaluation, make a detailed report together with reasons regarding the nature of the duties performed by the two cadres and whether they are substantially identical. The work of hearing shall be completed within three months from today and the report shall be filed before the Tribunal within a month thereafter. Parties will be at liberty to file their objections, if any, to the report submitted by the expert body within two ~~xx~~ weeks thereafter.

5. The case be listed for hearing before the Tribunal on 6-4-1995. Copy of this order be handed over forthwith to the parties."

In terms of the order of the Tribunal the respondents set up a committee and under their affidavit dt. March'1995 enclosed a copy of the report of the expert body dt. 16-3-1995 which is to be seen at Ex.H to the affidavit. The observations and conclusion of this expert body are indicated as below:

"OBSERVATIONS

- (a) Both the JSA Gde-I and JSA Gde-II belong to one and the same group of subordinate scientific post in the DGQA Organisation.
- (b) These two posts differ in grades. JSA-I holds a higher scale as compared to JSA -II by virtue of length of service, qualifications, knowledge and experience. In fact JSA Gde-II is a feeder post for JSA-I and a minimum period of three years experience as JSA Gde-II is considered essential before being promoted to the post of JSA Gde-I.
- (c) The job requirements of both JSA Gde-I and JSA Gde-II are broadly the same. The incumbants of both these grades are required to carry out testing of equipments/components for quality assurance purposes. However, more complicated and critical types

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of tests are normally entrusted to JSA Gde-I only, keeping in view their long experience, skill and knowledge on the subject. JSA Gde-II having lesser experience are generally required to perform testing of routine components etc. after following standard procedures.

- (d) JSA Gde-I by virtue of their knowledge and experience of advanced scientific methods/procedure/techniques are in a position to conduct test and analyse results more independently without the help of Supervisors. However, JSA Gde-II especially at the initial stages of their service, because of their lack of experience need supervision and help of their senior colleagues/supervisors in carrying out various tests etc.
- (e) JSA Gde I are often called up to perform supervisory functions in the lab and are required to co-ordinate the activities within the section. However, such supervisory functions are not entrusted to JSA Gde II who are comparatively juniors.

CONCLUSIONS

The duties of JSA I and JSA II are well defined and are not identical. The level of responsibility assigned to JSA I demand greater experience and expertise. JSA II is a feeder grade to JSA I and require three years to become JSA I but owing to heavy stagnation, JSA II are also being assigned responsibility of JSA I occasionally.

Merging the two posts is not feasible as JSA II who do not have requisite experience cannot cope up with responsibility of JSA I."

The applicants have filed cross objections on 7-6-95

The gist of objections is that the committee was not properly constituted because it consists of four

persons, the fourth person being Major General Garga,

which is a blatant violation of the order which had initiated the report. Further inclusion of Mr.K.H.Gandhi, D.C.S.O. amounts to inclusion of a partisan member. It is thirdly contended that expert committee did not visit Bombay establishment which had ventilated their grievances through the present O.A. The applicants could not remain present in Delhi and therefore sent their written observations submissions. According to the applicants (a) and (c) support their case. The further observations contained in (b), (d) & (e) are incorrect and only stated with a view to somehow reject the legitimate claim of the JSA II. The applicants therefore requested the Tribunal to discard the report of the committee and to grant the prayers of the applicants.

8. At the argument stage the respondents referred to a division bench judgment of C.A.T. Principal Bench in O.A. No.239/91 decided on 21-3-1995 in which the Scientific Workers Association had sought for a direction to the respondents to upgrade the pay scales of JSA Gr.I & II from Rs.380-560 and Rs.425-700 to Rs.425-700 and Rs.550-900 respectively w.e.f. 1-1-1973 and to further revise the pay scales on the basis of the Fourth Pay Commission's scales of pay w.e.f. 1-1-1986 to Rs.1400-2300 and Rs.1600-2660 for JSA-II and JSA I respectively. Thus the prayers in the O.A. before the Principal Bench related not only JSA II but also JSA I. The Tribunal disposed of the O.A. by directing the applicants' organisation to file a memorandum before the Vth Pay Commission.

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9. We have considered the material on record. We are of the view that the qualifications and duties and responsibilities of JSA-I and II in the organisation of the Director General of Quality Assurance are quite distinct and the doctrine of equal pay for equal work does not apply. The allegation of discrimination vis-a-vis the staff in the Directorate of Marketing and Inspection is also not substantiated because no material has been placed before us to show that the recruitment rules of the two types of staff are identical in the latter organisation. The report of the expert committee clearly brings out the distinction in the duties and responsibilities of the JSA Gr.I and Gr.II and in our view the material on record establishes that the classification between JSA-I and II is a reasonable classification.

10. We, therefore, consider that the O.A. has no merit and is liable to be dismissed. It is of course open to the applicants to make appropriate representations before the Vth Pay Commission if that avenue is still open to them considering the time table of the work of Vth Pay Commission.

11. We, therefore, dismiss the O.A. with this limited liberty with no order as to costs.

M.R. Kolhatkar

(M.R. KOLHATKAR)
Member(A)

B.S. Hegde

(B.S. HEGDE)
Member(J)