

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 299/90

199

T.A. NO: ----

(18)

DATE OF DECISION 2-4-1992

Mrs. Sheila Rajan

Petitioner

Mr. R. J. Kudchadkar

Advocate for the Petitioners

Versus

Union of India

Respondent

Mr. R. K. Shetty

Advocate for the Respondent(s)

CORAM:

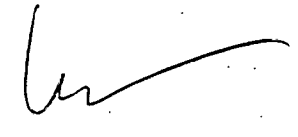
The Hon'ble Mr. Justice U.C. Srivastava, Vice-Chairman

The Hon'ble Mr. M.Y. Priolkar, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? y
2. To be referred to the Reporter or not ? y
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 ? n

mbm*

MD


(U.C. SRIVASTAVA)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.299/90

(10)

Mrs. Sheila Rajan,
Prakash Park,
Flat No.9,
147, Lullanagar,
Pune - 411 040.

.. Applicant

vs.

1. Union of India
through
The Secretary,
Ministry of Defence,
New Delhi.

2. Commandant,
Armed Forces Medical
College,
Pune - 411 040.

.. Respondents

Coram: Hon'ble Shri Justice U.C. Srivastava,
Vice-Chairman.

Hon'ble Shri M.Y. Priolkar, Member(A)

Appearances:

1. Mr. R.J. Kudchadkar
Advocate for the
Applicant.

2. Mr. R.K. Shetty
Advocate for the
Respondents.

(ORAL JUDGMENT: Date: 2-4-1992
(Per U.C. Srivastava, Vice-Chairman)

The applicant was directly recruited as a Speech Therapist, a Group 'C' post, in the Department of E.N.T. in the Armed Forces Medical College at Pune in the pay scale of Rs.270-10-290-15-410-EB-15-485 + allowances. According to her she conducted regular out patient department duties during the working hours and carrying out necessary investigations, treatments and rehabilitation where required and certain other works. According to the respondents she was supposed to do some of these works. Applicant represented her case on 28th August, 1981 for upgradation of the post of Speech Therapist. Respondent No.1 has made certain queries, in reply to which it was mentioned that various hospitals have already adopted the particular


scale i.e. Rs.620-30-740-35-880-EB-40-960. But in the institution in which the applicant is working is having the same old pay scale which was revised as per the recommendation of IIIrd Pay Commission to Rs.470-750. As the applicant did not get any reply to her representation she made a further representation on 23-8-1988. Her representation was recommended by Commander, Armed Forces Medical College, Pune. He recommended that the applicant may be included in Para Military staff pointing out that similar other persons elsewhere are holding Group 'B' Gazetted post. The applicant has pleaded that IVth Pay Commission did not include the Speech Therapist in Para Medical category and the department also did not take into consideration that she was asked to do additional duties and was asked to train Nursing Assistants of Armed Forces in Speech Therapy for six months, and other extra workers were also taken. It is not necessary to make reference to other details or what transpired in the department on the interview etc. which has been taken place and the applicant was given a written warning which according to the applicant was uncalled for against which she made a representation upto Prime Minister. Having failed to get any relief from the department regarding upgradation which she is claiming and the pay scale and remuneration for the work done the applicant has approached this Tribunal claiming that the post of Speech Therapist be upgraded to Group 'B' (later on amended as Group 'A') as it is already done in other Central Government Establishments and revise the applicant's pay scale according to Group 'B' Gazetted with retrospective effect from November, 1971 to November, 1981 and from December, 1981 onwards as Group 'A' Gazetted.


2. Respondents have opposed the claim of the applicant and stated that Speech Therapists have been employed at various other centres including Army Hospital etc. and her case for upgradation of the post of Speech Therapist was taken up with Office of the Director General, Armed Forces Medical Services vide letter dtd. 23rd September, 1981 and it was intimated vide letter dated 28th May, 1986 that there was complete ban on creation/upgradation of the further post and her case would be processed/as and when the ban was relaxed. Her case was again put up to Ministry of Defence and Ministry of Defence vide letter dtd. 27th February, 1990, copy of which is on record, stated that there was ban on creation/upgradation of posts and the applicant was informed that her case could be taken up on lifting of ban vide letter dtd. 12th March, 1990. Learned counsel for the respondents contended that this application deserves to be dismissed as last month the applicant has been compulsorily retired as such she is not entitled to any relief because she is no longer in the service of the department. On behalf of the applicant it was stated that it is a different cause of action and the applicant will be challenging the said order separately and further what she is claiming in this application pertains to the period when she very well continued in service. It was contended on behalf of the applicant that of course there was no ban in the year 1981 and her prayer could have been considered in that year and it was only in the year 1986 a reply has been given to the effect that because of the ban her case cannot be considered and this was reiterated in the year 1990. It is really ~~but~~ something very strange that in the

Army also letters are replied after five years. (M)

In case the applicant's case would have been considered earlier it was just possible that she would have got the desired relief which she was claiming and her case was considered only when the ban was imposed. As such no such relief can be granted to the applicant because of the delay and latches on the part of the Government but it is a fit case, as and when the ban is removed, her case for upgradation shall be considered by the respondents without delay.

So far as the extra work is concerned obviously that may be taken into account and it is still open for the applicant to claim extra emoluments and remuneration in respect of the same for which there is a provision under FR exists. As far as pay scale is concerned the same depends on the upgradation. In case upgradation is done she can claim a particular ^{pay}/scale. But while claiming the particular pay scale various other ~~matter~~ factors are to be considered i.e. duties, functions and responsibilities of Speech Therapist in this particular department are equal to that performed in other departments and at present we have no such material from which it can be decided, may it be the party has chosen to keep this matter alive and that is why all the material has not ^{been} placed on record. In case the applicant ultimately succeeds and she gets her post upgraded it will be open for her to take up the matter. With the above observation the application is disposed of with no order as to costs.


(M.Y. PRIOLKAR)
Member(A)


(U.C. SRIVASTAVA)
Vice-Chairman