

(7)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

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Original Application No: 344/91.

Transfer Application No:

DATE OF DECISION: 25.10.1994.

Mohan.P.Hankare Petitioner

Shri D.V.Gangal Advocate for the Petitioners

Versus

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Union of India & O.Another Respondent

Shri V.S.Masurkar Advocate for the Respondent(s)

CORAM :

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The Hon'ble Shri M.S.Deshpande, Vice-Chairman.

The Hon'ble Shri P.P.Srivastava, Member(A).

1. To be referred to the Reporter or not ? N
2. Whether it needs to be circulated to other Benches of the Tribunal ? N

  
(M.S.DESHPANDE)  
V.C.

BEFORE CENTRAL ADMINISTRATIVE TRIBUNALBOMBAY BENCH.O.A. NO.: 344/91.

Shri Mohan P. Hankare ... Applicant

Versus

Union Of India &amp; Another ... Respondents.

CORAM :

Hon'ble Justice Shri M. S. Deshpande, Vice-Chairman.

Hon'ble Shri P. P. Srivastava, Member (A).

APPEARANCE :

1. Shri D. V. Gangal,  
Counsel for the Applicant.
2. Shri V. S. Masurkar,  
Counsel for the Respondents.

ORAL JUDGEMENT :DATED : 25.10.1994.

( Per. Shri M. S. Deshpande, Vice-Chairman ).

1. The applicant is a Motor Mechanic, working in the Films Division seeks parity of pay scale with the Mechanics who are in the employment with the All India Radio. The applicant's initial pay was in the scale of Rs. 320-400, which after the fourth Pay Commission was fixed in the scale of Rs. 1150-25-1500 in contrast with the pay of the Motor Mechanic employed with the All India Radio at Rs. 1200-30-1440-EB-30-1800. The applicant had made several representations to the Respondents for giving the parity of pay scale. Since no reply ~~was~~ <sup>was</sup> been received, he has filed O.A. No. 264/90. That O.A. was, however, withdrawn in view of the statement made by the Respondents that the applicant's grievance was under consideration. Since nothing was done thereafter, the applicant has filed this

petition contending that the duties performed by him are identical to the duties of a Motor Mechanic in the All India Radio and that the qualifications prescribed are the same. That in view of this, the different pay scales prescribed for different posts are naturally discriminatory. The Respondents deny this contention and contend that the qualifications prescribed for the two posts are different and that the duties are not identical. It is submitted that a Special Investigation Unit carried out a study of the staffing pattern in Films Division in December, 90 and January, 91 and ultimately, had submitted their report on 03.06.1993 that the post of the Mechanic in the Films Division, should be abolished.

2. With regard to the qualifications prescribed which are stated in Annexure-C to the O.A., it is apparent that the qualifications required for the Motor Mechanic with the All India Radio are :

1. Knowledge of Motor Vehicles, 2. Knowledge of electrical system and its maintenance, 3. Ability to overhaul. 4. Experience in reputable automobile firm or any Government Organisation for the period of not less than 2 years as a Motor Mechanic, and age below 30 years. Contrasted to these requirements, the prescribed qualifications for the Motor Mechanic with the Films Division are that he must have atleast 3 years experience as a Mechanic in a Motor Garage and good knowledge and experience of Maintenance of Motor Vehicles of all types. There is a significant difference in the qualifications which are to be found at item-4 for the Motor Mechanic with All India Radio and what is required is experience in reputed automobile firm for Government Organisation while necessary experience in qualitative terms for

the Motor Mechanic in Films Division is experience gained in a Motor Garage. Item-3 for the first category requires knowledge of electrical system and its maintenance which is not required for a Motor Mechanic in Films Division. The contention of the applicant that the qualification prescribed for the Motor Mechanic in Films Division are identical with those prescribed for Motor Mechanic in All India cannot be accepted. The plea of the applicant was that the duties to be performed were identical and this was denied. The Learned Counsel of the applicant urged that it was the responsibility of the respondents to produce the duty lists of the Motor Mechanic of All India Radio to show that the duties were different and the respondents should not be allowed to get away with a simple denial regarding the duties to be performed in the two establishments. It must be noted that it was for the applicant specifically to make out a case for parity of wages by showing that the duties are identical and not merely say that they were identical.

3. Since sufficient material has not been placed before us to show that the duties of Motor Mechanics in these two departments are same, the contention cannot be accepted. In Federation of All India Customs and Central Excise Stenographers and others V/s. Union of India and others reported in AIR 1988 SUPREME COURT 1291, it was observed:-

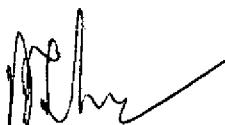
"that equal pay must depend upon the nature of the work done, it cannot be judged by the mere volume of work, there may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities make a difference. One cannot deny that often the difference is a matter of degree and that there is an element of value judgement by those who are charged

with the administration in fixing the scales of pay and other conditions of service. So long as such value judgement is made bona fide, reasonably on an intelligible criterion which has a rational nexus with the object of differentiation, such differentiation will not amount to discrimination.

In *Mew Ram Kanojia V/s. All India Institute of Medical Sciences and Ors, Administrative Tribunals Report 1989(2) S.C.17*, it was pointed out

"while considering the question 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 scale but if the classification is founded on unreal, and unreasonable basis it would be violative of Articles 14 and 16 of the Constitution. Equality must be among the equals. Unequals cannot claim equality.

Having regard to the factual material placed before us and the legal principles stated above, it is not possible for us to grant the relief sought by the applicant and as such this OA is disposed of.



(P.P. SRIVASTAVA)  
M(A)



(M.S. DESHPANDE)  
V.C.

abp.