

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO.:1327/92

Dated this 23 the th day of June 2000.

Surendra Prasad Applicant

Mr.P.A.Prabhakaran Avocate for the
Applicant.

VERSUS

Union of India & Ors. Respondents.

Mr.M.I. Sethna Advocate for the
Respondents.

CORAM :

Hon'ble Shri L. Hmingliana, Member (A)
Hon'ble Shri Rafiq Uddin, Member (J)

(i) To be referred to the Reporter or not ? No

(ii) Whether it needs to be circulated to other Benches of the Tribunal ? No

(iii) Library. Yes

Rafiq Uddin
(Rafiq Uddin)
Member (J).

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

Original Application No.1327/92

Dated _____ this 23 th day of June, 2000

Coram : Hon'ble Shri L. Hminglana, Member (A)
Hon'ble Shri Rafiq Uddin, Member (J)

Surendra Prasad,
Social Welfare Training and
Research Centre, 332, S.V.P.
Road, Mumbai - 400 004.

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... Applicant.

(By Advocate Shri P.A. Prabhakaran)

Vs.

1. Union of India, Ministry of
Health and Family Welfare,
Nirman Bhavan, New Delhi-110011
through its Secretary.

2. Director,
Family Welfare Training and
Research Centre,
332, S.V.P. Road,
Mumbai - 400 004.

3. Secretary,
Ministry of Human Resources Development,
Government of India, Nirman Bhavan,
New Delhi - 110 001.

4. The Director,
International Institute of Population
Sciences, Govandi Station Road,
Deonar, Mumbai-400088.

... Respondents.

(By Advocate Shri M.I. Sethna)

O R D E R
{ Per : Shri Rafiq Uddin, Member (J) }

By means of this O.A. the applicant seeks reliefs which
enumerated as under:-

(i) The applicant be placed in the pay scale of Rs.2200-4000
from 1.1.1986 to 1.8.1987.

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- (ii) The applicant be placed in the pay scale as recommended by the Union Public Service Commission to University Grant Commission to the post of Lecturer from 1.8.1987.
- (iii) The applicant be place in the pay scale of Asstt. Professor as recommended by the U.G.C. in the pay scale of Rs.3000-4500 from June, 1992.
- (iv) The promotional avenues may be opened to the applicant as he has been stagnated from 31.8.1984 to 1.1.1989.
- (v) The applicant be granted incentive allowance for acquiring additional qualification during course of service.
- (vi) The respondents be directed to made available the highr post manned by the medical personnel.
- (vii) Nominclatures and designations of the teaching personnel in the Family Welfare and Research Centre at Bombay and other 4 Institutes be brought on par and the Bombay Personnel without giving same designation as given to their counter-parts in the other institutes.
- (viii) The date of superannuation of the applicant be increased to 60 years instead of 58 years as he
- (ix) ACRs of the applicant be written by the officer of Indian Institute of Population Sciences because the work of the applicant is being observed by the officer of the deemed University.
- (x) The respondents be directed to grant UGC Pay scale to the applicant and Post Graduates Diploma Certificates issued by the International Institute of Population Sciences from 1987 be declared as invalid because the classes

are being conducted by Social Services Instructors and staff of Family Welfare and Training Centre.

2. The facts of the case which emerged from the records are that the applicant was appointed as Social Worker Instructor in the pay scale of Rs.550-900 as usual allowances admissible to Central Government employees with effect from 31.8.1971. The applicant was appointed as Social Worker Instructor (SWI) in Family Welfare Training and Research Centre, Bombay. The appointment of the applicant is governed by the Family Planning Training Research Centre Bombay (Social Worker Instructor) Recruitment Rules 1973 a copy of which is available on record as Exhibit no.2. The minimum essential qualification prescribed for the appointment is that the candidate should be second class degree holder in one of the social sciences viz. Anthropology, social work, social psychology and above 2 years experience in social education including family planning educational sciences. The applicant was recruited through UPSC and at the time of his recruitment he was having qualification of Master in Social work and Post Graduates Diploma in Public Administration. It appears during his service ^R ~~that~~ the applicant also acquired additional qualification viz. P.G. Diploma in Public Relation and P.G. Diploma in Health Education.

3. The pay scale of the applicant after implementation of the recommendations of the 4th Pay Commission was fixed in the scale of Rs.2000-3200 with effect from 1.1.1986. However, later on the matter of fixation of the applicant was re-examined in consultation ^{with} Ministry of Health and Family Welfare and his pay was fixed in the scale of Rs.1640-2900. The applicant made

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representation to the Director, Family Welfare Training Research Centre, Bombay (Respondent No.2) who recommended his case to the Ministry of Health and Family Welfare (Respondent No.1) that pay of the applicant should be fixed in the scale of Rs.2000-3200 in terms of the recommendations of the 4th Pay Commission. However, by the impugned order dated 30.10.1991, the Respondent No.1 informed the Respondent No.2 that in case of Social Worker Instructor relevant chapter 4 of the Pay Commission to Chapter 8 and the relevant pay scale of Social Worker Instructors are Rs.1640 to 2900. The Respondent No.2 accordingly revised the pay scale of the applicant and ~~SWI~~ by reducing the same to Rs.2000-3200 to 1640-2900.

4. The case of the applicant is that he carries the same type of job as Lecturers, Asstt. Professors etc. as in other institutes such as All India Institute of Hygiene and Public Health, Calcutta, Central Health Education Bureau, New Delhi and Gandhinagar Institute of Rural Health, Madurai. According to the applicant the Training faculty of these institutes carries exactly the same work as Social Worker Instructor doing at Bombay. He alleges that categories under different designations with different pay scales such as Professors, Associate Professor, Head of Department, Dy. Director, Assistant Director, Training Officer etc. were continued in aforesaid institutions but no similar changes have been brought in the Family Welfare Training & Research Centre, Bombay in which the applicant is working as Social Worker Instructor. In other hand he claims that since all the aforesaid 4 institutes and institute of the applicant are entrusted with the training in Post Graduates

Diploma Course in Health Education. The applicant is entitled for same treatment as sought in aforesaid institutions.

5. The applicant had also claimed that International Institute of Popular Sciences, Deonar is a deemed University and Diploma in Health Education are being awarded by that University whereas the Social Worker Instructor of the Family Welfare Department were conducting Post Graduate Diploma Classes for Diploma but the instructors are neither paid the pay scale of U.G.C. Lecturers nor they are paid the Training Allowance. The applicant therefore claims that since he is conducting the classes for aforesaid deemed University for Post Graduate Diploma, he is entitled for pay scale of Lecturers of U.G.C. His plea for this pay scale cannot be rejected ^{because} mainly he does not possess the required qualification.

6. The applicant also stated that SWI is a higher rank than Health Educator who is posted at Retional Leprosy Training Centres whose pay scale has been fixed in in the scale of Rs.1640-2900. The applicant also stated that 4th Pay Commission also recommended the removal of disparity between non medical teaching staff and medical teaching staff. All the Social Worker Instructors at Bombay made the application to Respondent No.1 requesting for the pay scale of Rs.2000-3500 on the basis of parity with their counter-parts in C.H.E.B., New Delhi and the Rehabilitation Centre for physically handicapped but no action has been taken.

7. The Respondents have denied the claim by filing counter reply. A rejoinder has also been filed on behalf of the

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applicant.

8. We have heard the Learned Counsels on both the sides and perused the records. It has been urged on behalf of the Learned Counsel for the Respondents that the present O.A. has been filed by the applicant invoking the principles of equal pay for equal work. In order to invoke equal pay for equal work various ~~Respects~~ applications are taking into account. This task has been undertaken by the administration after study and proper decision has been taken and since there is no similarity between the post held by the applicant and other post in respect of which he has sought parity, ~~are not similar~~. The principle is not applicable. It is also pointed out by the Learned Counsel for the Respondents that 4 institutes which have been referred to by the applicant are autonomous bodies working under Department of Family Welfare under Ministry of Family Welfare and therefore application is entirely different and thus all the centre in which the applicant is working. It is also denied that the International Institute of Population Sciences, Deonar is a deemed University as claimed by the applicant.

9. We have fully examined the case of the applicant for pay parity with the staff he has mentioned in his application. It would be pertinent to mention that pay fixation of Government servant is undertaken by expert body like Pay Commission whose recommendations are entitled to great weight. The Court cannot interfere only in unjust treatment or arbitrary treatment. Similarly, one of the basic principles for pay fixation is that salary must reflect the nature of duties and responsibilities

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attached to the post, meaning thereby that the pay scale must be commensurate with the task to be performed and the responsibility to be undertaken by the holder of the post. (Secretary, Finance Department vs. West Bengal Registration Service Association (1993) 24 Administrative Tribunals Cases 403).

10. Now the applicant admittedly has been entered in the service as Instructor and he is claiming post parity with the Lecturers and Professors who have been granted pay scale by the U.G.C. The applicant has not disclosed the essential educational qualification required for the post of Lecturers, Asstt. Professors. Therefore, the question of parity with ~~this~~ ^{these} posts does not arise. The applicant has also claiming the pay scale recommended by the U.G.C. which is a expert body for making ~~rank~~ ^{recommendation} ~~rank~~ in respect of University etc. but strangely the applicant is not impleaded the U.G.C. in the present application. Therefore this Tribunal is not in a position to give any finding on this point ~~absentee~~ ^{in pleading} in passing full material before the Tribunal and without ~~any~~ ^{any} ~~the use~~ of the U.G.C.

11. We find that the comparative chart showing required qualification of both the posts was ~~same~~ ^{similar} to the government by the Respondent No.2 for consideration that the recommendation that the job responsibility and social worker instructor at centre and ~~thus~~ the Lecturers in Medical School where the work were similar. However, the Government vide impugned order 30.10.91 (Exhibit 12) rejected the proposal on the following grounds.

"It is seen from the comparative statement that the qualifications required for the post of Lecturer, Medical Social Work, All India Institute of Physical Medicine & Rehabilitation,

Bombay are a degree and in addition a post Graduate Degree or Diploma in Medical Social Work whereas for the post of Social Worker Instructor, Family Welfare Training and Research Centre, Bombay; the essential qualification is only a second class degree. As such the comparison between the two for equating their pay scales is not justified". It is evident from the perusal of the order that the claim of the applicant has been rejected mainly on the ground that qualification required Lecturers, Medical Social Worker etc. are a degree and additional post medical social worker. Whereas for the post of social worker instructor is essential classes the ~~7th~~ ^{IInd} class degree. The Government in its wisdom as distinguished ~~the~~ the status of the both post on the basis of essential qualification. Therefore, we do not find to interfere in this decision of the Government.

12. It is also as mentioned that the applicant has entered in the service as Instructor and there is a difference between ^{few} instructor and Lecturer and cannot be compared. It is no doubt that the applicant has acquired additional qualification. But in the absence any provisions in service rules or service conditions for granting higher pay scales or opening of promotional avenues on the basis of additional qualification acquired by employees ^{government} during his service cannot be compelled to grant ~~to~~ the pay or promotional avenue to such employee. Therefore the claim of the applicant for giving him some benefit of some additional qualification does not arise ^{but} ~~but there is no~~ ground.

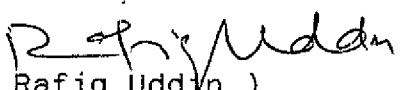
13. As regards stagnation of increment of the applicant it has been specifically stated in para 14 of the counter reply, the respondents states that the same was granted whereby his pay was

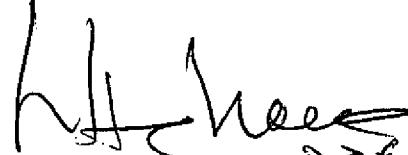
raised to Rs. 930/- with effect from 1.1.1986. The applicant has neither denied this fact nor has disclosed in his O.A.

14. Similarly so far as the question of sanction of higher post on the administrative side the respondents in para 10 of the counter reply have specifically stated that the post of Director has been created for F.W.T. & R.C. in the pay scale of of Rs.1800-2000 plus NPA (revised 4500-5700 plus NPA) alongwith 7 other posts for training purpose. This fact has also not been controverted by the applicant in his rejoinder. Thus there are also promotional avenues opened for the applicant in the present ~~post~~ application. Besides, it has been admitted and stated on behalf of the respondents in para 18 of the counter reply that action is in process to include this post for feeder cadre for training officer and research officer. This aspect is also not denied by the applicant. Both the steps being taken by the respondents ~~now~~ clearly opened new promotional avenues to the applicant.

15. As regards the age of retirement of Central Government servants has already been increased from 58 to 60 years. This relief has now become infructuous. It is not established that the International Institute of Popular Sciences ~~is~~ as claimed by the applicant. Moreover does not form to declare the service by the aforesaid institute as invalid merely because ~~there~~ is imparity ^{deemed University} ~~by~~ to the students by the applicant and other SWIS. This relief is misconceived and without any base.

16. In the result we do not find the case of the applicant any entitlement of pay scale of Rs.2000-3200 and in view of the discussion we do not find any merit in the O.A. and the same is dismissed with no order as to costs.


(Rafiq Uddin)
Member (J)


(L. Hminglana) ~~26/2/2002~~
Member (A).

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