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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 1224/95.

Date of Decision: 13.11.97

Smt.Champawati Saha

Applicant.

Advocate for
Applicant.

Versus

Union of India & Ors.

Respondent(s)

Shri M.GBhangde,


Advocate for
Respondent(s)

CORAM:

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

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

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?


(B.S.HEGDE)
MEMBER(J).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI,
CAMP AT NAGPUR.

ORIGINAL APPLICATION NO. 1224/1995.

13th, this the Thirteenth day of November 1997.

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

Smt. Champawati Saha,
Home Science Domestic
Science Teacher,
Ordnance Factory Higher
Secondary School,
Ordnance Factory,
Chanda.

... Applicant.

(By Advocate - None)

V/s.

1. Union of India,
through its Secretary,
Ministry of Defence Production,
New Delhi.
2. Ordnance Factory Board,
10-A Auckland Road,
Calcutta - 1, through
Chairman.
3. The General Manager,
Ordnance Factory,
Chanda.

... Respondents.

(By Advocate Shri M.G.Bhangde)

O R D E R

¶ Per Shri B.S.Hegde, Member(J) ¶

None for the Applicant. Shri M.G.Bhangde,
counsel for the respondents. This matter was heard
before a Single Bench on 13.5.1997 when both the parties
were present. The learned Judge after hearing both the



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parties and in view of the ratio laid down by the Hon'ble Supreme Court in Union of India & Anr. V/s. P.V.Hariharan and Ors. decided on 12.3.1997, considering the facts and circumstances of the case, the matter was referred to the Division Bench. Accordingly, the matter is placed before the Division Bench for consideration.

2. When the matter was called for none appeared on behalf of the applicant. The only prayer made in this O.A. is for a direction to the respondents to place the applicant in the Selection Grade pay scale of Rs.2000-3500 w.e.f. 1.1.1992. There is no dispute regarding the facts. The applicant was appointed to the post of Domestic Science Teacher on 2.1.1960 in Ordnance Factory Organisation. She was placed in the Selection Grade on 23.2.1980. The post of Domestic Science Teacher which was carrying the pay scale of Rs.740-880. After the revision of pay scale as per IVth Pay Commission the posts in the grade/scale of Rs.740-880 were given the pay scale of Rs.1640-2900 w.e.f. 1.1.1986. Accordingly, the pay of the applicant was refixed in the revised pay scale of Rs.1640-2900.

3. The contention of the applicant in this O.A. is that the pay scale of the teachers working under the Respondents were revised by the IVth Pay Commission as on 1.1.1986. The pre-revised scale of the applicant was Rs.740-880. The Government not being satisfied with the

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recommendations of the IVth Pay Commission in respect of the teachers working under the R-2 had appointed a Commission known as "Chatopadhyay Commission". The said commission's recommendations were given effect to w.e.f. 1.1.1986. The Chatopadhyay Commission recommended three scales for teachers which are given below :

- 1) Rs.1400-2600 -
- 2) Rs.1640-2900 - (Senior Scale after 12 years of service upon screening by BFC)
- 3) Rs.2000-3500 - (Selection scale after 12 years in Senior Scale and on attainment of qualifications laid down by PGTS).

The contention of the applicant is that those teachers were already in the pre-revised selection grade recommended by the IVth Pay Commission, some as senior scale in the new pay scale and they have been placed directly in the senior scale. Therefore, the applicant being a teacher already placed in the selection grade vide order dt. 26.3.1980 she should have been considered for the Selection scale after completion of 12 years service i.e. in the year 1992. Thereby her exclusion of consideration for selection scale in the year 1992 was not justified. Thereafter she made a representation to the Competent Authority which has been rejected only on 23.3.1995 stating that selection scale is granted only after 12 years from the ^{date of} placement in the senior scale. The applicant was placed in the senior scale of

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Rs.1640-2900 w.e.f. 1.1.1986. However, the Government of India vide its letter dt. 3.11.1987 stated that revision of pay scale shall be admissible subject to the following conditions :

"The senior scale will be granted after 12 years to Primary School Teachers, Trained Graduates Teachers/H.M. of Primary Schools and Post Graduate Teachers/H.M. of Middle Schools, the selection will be granted after 12 years service in the senior scale of the respective cadre. For the Vice-Principals/H.M. of Secondary Schools there will be only senior scale after 12 years and no selection grade."

Further, the contention of the applicant is that 12 years prescribed by the Commission's recommendation is not only in the revised scale but the corresponding scale in the pre-revised scale also. It is an admitted fact that the revised scale came into being from 1.1.1986, if that be the criteria the applicant would complete 12 years service in 1998 and not before that. The applicant has retired from service on 31.7.1996. This is a question of policy matter whether the revised scale shall be given from what date. The competent authority after considering the various aspects have granted the revised scale only w.e.f. 1.1.1986, therefore, the contention of the applicant that she ought to have been considered, the applicant's experience in the pre-revised scale which is equivalent to the revised scale and she ought to have been considered by the

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selection committee in the year 1982 could not be acceded to for the reasons stated above. As rightly pointed out by the Apex Court in the ~~Aforesaid~~ Judgment that the fixation of pay is not the function of the Tribunal it is for the competent authority to decide on the basis of the policy decision. The revised scale has been granted to applicant and others who are similarly situated on the basis of the recommendations of the Chatopadhyay Commission. Therefore, in our opinion, the contention raised by the applicant has no merit.

4. For the reasons stated above the question for consideration is whether pre-revised scale should be counted for the purposes of calculating 12 years service in the senior scale. The department has taken a conscious decision, that the selection grade ~~scale~~ as per the recommendation of IVth Pay Commission, it is the same as senior scale in the new pay scale so those who were already in the pre-revised selection grade can be placed in the senior scale. Therefore, the selection scale revised is to be given to those who have completed 12 years of service in the senior scale of the grade. The stand taken by the respondents cannot be treated as arbitrary although the applicant had worked in the pay scale including pre-revised scale right from 1980 and her contention that she should have been considered

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in the year 1992 for selection scale could not be acceded to in view of the policy decision taken by the respondents. Since that revised senior scale has been given to the applicant in the year 1986, thereby she would be eligible for further promotion only in 1998, before that she has retired. Therefore, we are of the opinion, that there is no merit in the O.A. the same is dismissed with no order as to costs.



(P.P. SRIVASTAVA)
MEMBER (A)



(B.S. HEGDE)
MEMBER (J).

B.