

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

Original Application No.6/1995
Dated this 12th day of April, 2000.

Coram: Hon'ble Shri B.N.Bahadur, Member (A)
and
Hon'ble Shri S.L.Jain, Member (J)

1. The Govt. Medical Stores Depot
Staff Association through
Mr. T.S. Amre, President
C/o GMSDSA
2. Shri D. P. Sangle, Jr. Sc. Asstt.
3. Shri S.D. Vichare, " "
4. Shri V.K. Mariye, " " Applicants

(By Advocate Shri R.R.Dalvi)

Vs.

1. Asstt. Director General (S.T)
Govt. Medical Stores Depot.
Bombay Central, Mumbai.
2. Director General of Health
Services, Nirman Bhavan
New Delhi - 110 011.
3. Secretary to the Government
of India, Ministry of Health
and Family Welfare,
Mantralaya, New Delhi.1. ... Respondents

(By Advocate Shri J.P. Deodhar)

O R D E R (ORAL)

Per: Hon'ble Shri B.N.Bahadur, Member (A)

This is an application made by the 3 applicants (Sr. 2, 3 and 4, all of whom are Junior Scientific Assistants (JSAs) in the Respondents' Organisation at Mumbai) and also, and by the Staff Association which is applicant No.1. The relief sought is as follows:

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" The Junior Scientific Assistant of the Government Medical Stores Depot, Bombay be granted the scale of Rs. 1400-2300 on par with the scale granted to their counterparts in Calcutta on grounds of equal pay for equal work under Articles 14, 16 and 39 (d) of the constitution of India, with consequential monetary and other benefits with retrospective effect, from 1.1.1986."

During arguments learned counsel for applicants did clarify that he would seek the lesser relief in that the scales of pay are now being sought from the date on which such scales are given to the counterparts ^{MB} ~~organisation~~ in Calcutta.

3. The facts of the case, in short, are that the applicant are working in the Medical Store Depot, at Mumbai, under the Medical Stores Organisation, functioning under the Ministry of Health and Family Welfare, of the Union Govt. It is averred that there are such Depots operating in various parts of the country including those in the Cities of Mumbai, Calcutta, Delhi, Chennai etc. The grievance of the applicants is that the Respondents have provided higher scales of pay to the Junior Scientific Assistants working in the Depot in Calcutta through its Order issued in July 1993 (there is no specific date on the copy of the Order except "July, 1993"). This copy (at Ex. 'A') is not very clear but the fact that it is issued in July 1993 is accepted by Respondents.

4. It is the averrnment of the applicants that they are similarly situated, in all respects, to their counterparts in Calcutta and that the action of providing higher scales only in Calcutta ^{MB} is ~~vib~~ violative of the articles 14 and 16 of the Constitution. They further state that, as per Recruitment Rules,

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all these posts are filled in by Direct Recruitment with minimum qualifications of B.Sc/B.Pharm. They also assert that the Mumbai Depot is, in fact, the largest in terms of size and volume of work. It seems that the work at the Calcutta Depot was examined by Staff Inspection Unit (SIU) of the Ministry of Finance, whereas the work norms of Mumbai Depot were examined later by Internal Work Study Unit (IWSU) of the respondent Ministry and that whereas the former recommended upgradation, the latter did not. The applicants state that this is an unjustifiable discrimination, and that the normal practice, and the correct practice, is that all work norms should always be examined by SIU of the Finance Ministry. This situation has resulted in discriminatory treatment to the applicants.

5. In the reply statement of the respondents, a defence has first been taken in regard to the order dated 26.5.1994 (Ex.B) which is an irrelevant defence, and the point made that no representation was not made against this order. The other defence is that the JSAs of Calcutta Depot have been granted the higher scale of 1400-2300 on the basis of recommendation of Staff Inspection Unit as can be seen from the Order of July, 1993 (Ex.A) and that the Staff Inspection Unit which visited Calcutta, has prescribed higher scales, which have been given effect from 7.1993 only in the case of the Calcutta Depot JSAs. It is also averred the IWSU has not recommended any such increase in the Pay Scales of JSAs working in the Bombay Depot. Further part of the respondents written statement elaborates these

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aspects and also the attempts to justify the conclusions reached by the IWSU, and the Ministry. Justification is also sought on the point that 4th Pay Commission had recommended these Scales.

6. We have heard learned counsel on both sides. Counsel for the applicant took us over the facts the case and strenuously argued that this was a clear case of discrimination, and that resorting to two different studies by two different units as a basis was totally unjustifiable. He argued that the conclusions reached by the SIU under an independent Ministry i.e. Ministry of Finance were really valid; also that the job descriptions and recruitment and qualifications were the same in all Depots. It was also stated (on query by us) that a common list of seniority exists at all India level for the posts of JSAs for the purpose of promotion. This was not denied by the other side.

7. Learned counsels for the respondent rested his case on the written statement, and argued that the system was that the SIU of Finance Ministry decided which Depot/Office to take up and made its recommendations. Since they visited Calcutta and recommended upgradation, and such upgradation was made for Calcutta only. The rest of the arguments of Learned Counsel rested on the written statement.

8. We may also mention here that through an M.P. dated 10.4.2000 filed by applicant, a copy of a letter dated 5.1.2000 has been filed, wherein the Dy. Assistant Director General of Mumbai Depot has been informed that the higher pay scales were not given to the JSAs at Mumbai Depot, in view of the report of the Work Study Unit which did not recommend such increases in

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scales. The letter also makes the point that the JSAs working in various Govt. Medical Stores Depots have now been given the uniform scale (i.e. 5000 -8000) on the basis of recommendations made by 5th Pay Commission.

9. We have carefully analysed all the papers in the case and have taken into account the arguments made before us by ld. counsel on both sides. In the first instance, we note that there is no clear indication, either in written statement or through pleadings before us that the SIU had specifically made recommendations for Calcutta Depot, to the exclusion of other Depots. Normally, where several Depots/Offices are involved SIUs studies the system and it is for the Ministry to consider applying it for all similarly placed units and officials or otherwise. Unless Govt. arrives at a conscious decision that there are good reasons for differentiating between the different depots, any such discrimination would be violative of Constitutional provisions. In this case, admittedly, no such defence has been taken nor available on record. To merely say that the recommendation was based on a study in Calcutta Depot and hence only Calcutta JSAs were given the benefit is no argument at all ^{and Bmb} bears no justification whatsoever.

10. This arbitrariness is heightened by the fact, which has not been controverted that the recruitment qualifications in all Depots is the same and that the content of the job, and job responsibilities is/are the same. Further we note as indeed pleaded by the ld.counsel for applicant, and as is clear from the

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records that the 5th Pay Commission had clearly recommended as below:

"The differences in the scales of pay at Mumbai and the other Depots is due to recommendations based on a study by the Staff Inspection Unit of Calcutta and Chennai Depots. This study has not been carried out at Mumbai. Keeping in mind the qualifications of the posts at different levels, we recommend retention of the three tier structure at all the centres with the following scales of pay:-"

Govt. has now admittedly accepted the recommendations and provided uniform scales. This point also provides additional support to the case of the applicant, when they seek parity. Indeed, for the earlier period, as observed by the 5th Pay Commission the differences in the scales of pay, at Mumbai and other Depots, was due to the recommendations based on study by SIU of Calcutta and Chennai depots. In fact, learned counsel for applicants also made the point that subsequently ^{about} the BS benefits have been given to these JSAs at Chennai Depot but we are not going into that.

11. Be that as it may, it is clear from the above facts that there was no justification in making a differentiation between the Junior Scientific Assistants at Mumbai Depot and the Calcutta Depot. This is a clear case of constitutional discrimination, and we are convinced that the applicants have made out a case for our interference. They will have to be provided the same scales of pay as were provided to the Junior Scientific Assistants at the Calcutta Depot vide their order issued in July 1993 (referred to above and a copy of which is placed at Ex.A.)

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12. In view of the above discussions, we allow this O.A. with the following orders.

The application is allowed and the applicant at Sr. No.2 to 4, and all Junior Scientific Assistants similarly placed at Mumbai Depot shall be provided the same Pay Scales, as have been provided to JSAs at Calcutta Depot vide order issued in July, 1993 by Ministry of Health and Family Welfare. It is also hereby ordered that they be paid arrears of pay from the same date (July, 1993). However, no interest to be allowed. There will be no orders as to costs.

S.L. Jain
(S.L.Jain)

Member (J)

B.N. Bahadur
(B.N.Bahadur)

Member (A)

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