

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A. 975/1998

Mumbai this the 3rd day of December, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).
Hon'ble Smt. Shanta Shastry, Member (A).

Mrs. Kavita Ravindra Jaitpal,
R/o B-54, Flat No. 401,
Street No. 3, Shanti Nagar,
Mira Road,
Distt. Thane.

... Applicant.

(By Advocate Shri D.V. Gangal)

Versus

1. Union of India, through
the Secretary,
Ministry of Health and Family
Welfare, Nirman Bhawan,
New Delhi-110 011.
2. The Director,
Family Welfare Training
and Research Centre,
332, S.V.P. Road,
Mumbai-400 004.

... Respondents.

(By Advocate Shri V.G. Rege)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).

The applicant has filed this application seeking a direction to the respondents to grant her equal pay for equal work in the post of Store Keeper (SK), in the pay scale of Rs.470-750 revised to Rs.5000-8000, on the recommendations of the 5th Central Pay Commission with consequential benefits, from the date of her appointment.

2. The brief relevant facts of the case are that the applicant was given an offer of appointment to the post of SK by the respondents by letter dated 1.10.1984, in the pay scale of Rs.330-560 (pre-revised). According to the respondents, earlier

by Notification dated 30.4.1974, the post was known as Store Clerk (SC) but later the nomenclature of the post of SC was changed to SK. However, it is relevant to note that the respondents have not given the relevant Notification amending their earlier Notification issued in April, 1974, to show that the post of SC has now been re-named as SK in the same pay scale of Rs.330-560. Even at the time of offer of appointment made to the applicant, it is clearly mentioned that the post is SK and not SC. Learned counsel for the applicant has submitted that the applicant is doing the same nature of duties and discharging the same responsibilities as SKs in other Departments and other sections of the same Ministry/respondents. However, she has only been given the revision of pay scales as per the 4th and 5th Central Pay Commissions, as applicable to SCs, which is equivalent to Assistant Store Keepers and not SKs.

3. Learned counsel for the applicant has drawn our attention to a number of representations made to the respondents, one of which is dated 19.10.1994 (Annexure A-12). He has contended that the applicant had all along been representing to the effect that she should be paid the salary of SK, that is in the pre-revised scale of Rs.470-750 and not Rs.330-560 which, according to her, is the pay scale of Assistant Store Keeper/SC. No doubt, she has also been representing that her work has tremendously increased and she has been shouldering the higher responsibilities than of SCs and, therefore, she is entitled to be placed in the higher pay scale. The learned counsel has drawn our attention to the Memorandum dated 3.6.1993 issued by the respondents which is with reference to her representation dated 23.7.1993 (sic 23.7.1992)

regarding upgradation of the post of SK. In this, the respondents have stated that in accordance with Government instructions, "Ministries/Departments are not expected to sponsor proposals for upgradation/creation of posts or increase in salaries unless there are matched by increased earnings or saving by reduction of posts". We find that this reply of the respondents is not in order with regard to the claim raised by the applicant for being placed in the pay scale of SK, to which post she has been offered appointment which she had also accepted, in the lower pay scale of Rs.330-560 instead of Rs.470-750.

4. We have also seen the reply filed by the respondents and heard Shri V.G. Rege, learned counsel. He has contended that the applicant has accepted the offer of appointment without any murmur vide letter dated 1.10.1984 and she cannot, therefore, ask for any higher pay scale in the post of SK. However, as mentioned above, the respondents have failed to give the relevant document by which the nomenclature of the post from SC to SK has been effected by them. It is an admitted position that at the time of applicant's appointment as SK, there were no recruitment rules. Learned counsel for the respondents has been unable to help us to show whether any such Recruitment Rules have been framed by the respondents till date. The respondents have contended that there has been no specific recommendation of the 4th or 5th Central Pay Commissions with regard to the pay scale where the applicant is working. To this, Shri D.V. Gangal, learned counsel has correctly pointed out that since this post did not have any Recruitment Rules, her position has not been reflected before the Pay Commissions and neither has the

Department applied their mind to the actual claim made by the applicant. He has relied on the judgement of the Tribunal in V.S. Ramachandra Rao Vs. Secretary, Ministry of Science and Technology and Anr. (1991 (16) ATC 738 - Principal Bench). It is, however, relevant to note from the pleadings in the present case that the respondents do not deny that the post of SK to which the applicant has been appointed exists with the organisation in the pay scale of Rs.330-560.

5. From a perusal of the pleadings in the O.A., including the representations of the applicant as well as the reply given by the respondents to the same, it is seen that neither the claims of the applicant have been spelt out clearly in the earlier representations made by her to the respondents nor have the respondents dealt with the issues raised in the O.A. properly, namely, the application of the principles of equal pay for equal work. It is settled law that the Tribunal should not normally take upon itself the decision to grant pay scales, etc. which is best left to the expert bodies like the Pay Commissions. However, it is relevant to note that in this case, no recommendations of the Pay Commissions are given with regard to the isolated post of the applicant which is stated to be only one of its kind in the office of the respondents. ²⁸ ~~in the office of the respondents~~ ~~in the office of the respondents~~ It is also relevant to note that as submitted by the learned counsel for the applicant, the applicant is doing the same or similar duties and discharging responsibilities as other SKs in the same and other Departments/sister organisations of

Government of India. In the circumstances, we consider that it would be appropriate for the respondents to reconsider the issues raised by the applicant and take a final decision in the matter.

6. In the result, for the reasons given above, we dispose of the O.A. with the following directions:

- (1) The applicant shall submit a self contained representation within one month from the date of receipt of a copy of this order, bringing out clearly her claims for placing ^{her} ~~in~~ in the higher pay scale of Rs.470-750 with effect from her date of appointment with subsequent revisions of pay, in accordance with the relevant rules;
- (2) If such a representation, as above, is made by the applicant, the same shall be got examined by the respondents by a Committee of officers not below the rank of Joint Secretaries, namely, one from the Ministry of Finance, ^{one} ~~one~~ ^{Rs.} from the Ministry of Home Affairs, DOP&T and one from the nodal Ministry/respondents. The Committee shall submit a report to the respondents within three months from the date of receipt of the aforesaid representation;
- (3) The decision taken on the above report by the respondents shall also be communicated to the applicant

Yours

within one month from the date of receipt of the report;

(4) In the circumstances, liberty is granted to the applicant in case she is aggrieved by any further orders to be passed by the respondents to proceed in accordance with law.

No order as to costs.

Shanta
(Smt. Shanta Shastry)
Member (A)

Lakshmi
(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

'SRD'

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