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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.323/90.

Date of Judgement : 5-10-1993.

K.C.Srivastava

.. Applicant

Vs.

1. Secretary,
Min. of Welfare,
Govt. of India,
New Delhi.
2. Principal,
School for Partially
Deaf Children,
Yakutpura,
Hyderabad.

.. Respondents

Counsel for the Applicant :: Shri K.Satyanarayana

Counsel for the Respondents:: Shri N.R.Devaraj, Sr. CGSC

CORAM:

Hon'ble Shri A.B.Gorthi : Member(A)

Hon'ble Shri T.Chandrasekhara Reddy : Member(J)

J u d g e m e n t

[As per Hon'ble Shri A.B.Gorthi : Member(A)]

In this application the claim of the Applicant is for a direction to the Respondents to revise his pay scale retrospectively as follows:-

(a) Rs.1100-1600 from 1.1.73 to 31.12.85.

(b) Rs.3000-4500 from 1.1.86 to 31.7.89.

2. The Applicant is a post graduate in English Literature and received specialised training to teach the deaf from the University of Manchester, U.K. He was appointed as the Principal, School for Partially Deaf Children (S.P.D.C. for short) Hyderabad in 1971 in the scale of pay of Rs.400-900.

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Consequent to the implementation of the III Pay Commission's recommendations, the scale of pay of the Applicant was revised to Rs.900-1400. Simultaneously the pay scale of the Principals of three other institutions, namely,

(1) School for Partially Sighted Children, Dehra Dun,
(2) Model School for Mentally Deficient Children, New Delhi &
(3) School for Blind Children, Dehra Dun
was also revised to Rs.900-1400. All those institutions are under the Department of Social Welfare, Govt. of India (Min. of Social Welfare). In 1981, the Government revised the pay scales of the other three institutions to Rs.1100-1600 and gave it retrospective effect from 1.1.73, but the Applicant's post was singled out to be left in the pay scale of Rs.900-1400 only. Ever since, the Applicant had been claiming parity in pay with the Principals of the other institutions, but the Respondents did not take any decision. Consequently when the pay scales were revised on the recommendations of the IV Pay Commission, the pay scale of the Applicant was revised from Rs.900-1400 to the corresponding scale of Rs.2200-4000 whereas the pay scale of the Principals of the other three institutions was revised from Rs.1100-1600 to Rs.3000-4500.

3. The grievance of the Applicant is that ever since 1.1.73 he was unfairly denied parity in pay with the Principals of the other three institutions, although his educational qualifications, nature of duties performed and responsibilities shouldered are in no way lesser or inferior when compared with the other Principals.

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4. The Respondents in their counter affidavit have mainly asserted that it was only after a proper evaluation of all the four posts of Principals, the Government decided to raise the pay scale of the other Principals and that of the Director, Training Centre for Adult Deaf to Rs.3000-4500. They contended that the duties and responsibilities of the Applicant are not the same as those of the Principals of the other three institutions. The Respondents further contended that the Applicant's post cannot be equated with that of the Principal of the Senior Secondary School or that of the Training Centre for Adult Deaf.

5. The learned counsel for the Applicant elaborately argued that there was no justification to treat some institutions as equivalent to Senior Secondary School and to treat the Applicant's school otherwise. He gave as figures of the number of children in some of the institutions to show that the S.P.D.C. Hyderabad is no smaller. He also drew our attention to the counter affidavit filed by the Respondents in another case (O.A.No.273/86) filed by Shri B.Yellamanda, Physical Training Instructor of S.P.D.C. Hyderabad. Relevant passage therefrom reads as under:-

"The teachers of the S.P.D.C. Hyderabad were not given the scales of their counterparts in other schools ostensibly on the grounds that the school had only six teachers on its Roll and the students strength was only 70. On the same analogy, the scale of the Principal of S.P.D.C. Hyderabad was kept at a low level of Rs.900-1400 as against the pay scale of Rs.1100-1600 given to the Principal, M.S.M.D.C. (Model School for Mentally Deficient Children, New Delhi) and the Principal of the School for Partially Sighted Children, Dehradun."

It was therefore argued that there was no justification for the Respondents to contend that the other institutions were equated with Senior Secondary Schools.

6. Admittedly neither the III Pay Commission nor the IV Pay Commission equated the pay of the Applicant with that of the Principals of the other three institutions of the Min. of Social Welfare. The pay scale of the Applicant was at a lower level right from 1.1.73. The Respondents stated that the other institutions are larger, with a large number of students and faculty members. These institutions were given the status of Senior Secondary Schools but not the S.P.D.C. Hyderabad. Merely because of the designation of the Applicant and his educational qualifications, he cannot claim parity in pay with the Principals of the other institutions, so asserted the Respondents.

7. The grievance of the Applicant dates back to 1973, when the pay of the other Principals was raised to Rs.1100-1600 whereas that of the Applicant was left to remain at Rs.900-1400. He kept on representing relentlessly till he superannuated from service on 31.7.89. His representations were finally rejected by memos dt. 26.7.89 and 31.1.90. Notwithstanding these factors we examined the case on merits.

8. The essential issue to be determined in this case is whether the post held by the Applicant is similar to that of the Principals of the other three institutions under the Min. of Social Welfare. From the rival contentions raised, we find it difficult to determine it either way with certainty. In this context we may refer to Umesh Chandra Gupta & Ors. Vs. Oil & Natural Gas Commission & Ors. AIR 1989 SC 29 wherein it was held that the nature of work and responsibilities of the posts are matters to be

evaluated by the Management and not for the Court to determine by relying upon the averments in the affidavits of interested parties. If the Management for good reasons have classified the posts into two categories with different pay scales, the Courts generally must accept unless it is demonstrated that it is patently erroneous either in law or on fact. Similarly, in the case of State of U.P. & Ors. Vs. J.P. Chaurasia & Ors. AIR 1989 SC 19 it has been held:

"The answer to the question whether two posts are equal and carry equal pay depends upon several factors. The equation of posts or equation of pay must be left to the Executive Government which must be determined by expert bodies like Pay Commission. If there is any such determination by a Committee or Commission, the Court should normally accept it."

9. The scale of pay of the Applicant was fixed on the recommendations of the III Pay Commission w.e.f. 1.1.73. It was further revised consequent to the recommendations of the IV Pay Commission. The scale of pay of the Applicant remained at a lower level than that of the Principals of the other institutions of the Min. of Social Welfare during the last two decades. We thus do not find any merit in this application and it is hereby dismissed. No costs.

T. Chandrasekhara Reddy
(T. Chandrasekhara Reddy)
Member (J).

(A. B. Gorathi)
Member (A).

Dated: 5 Oct., 1993.

(Signature)
Deputy Registrar

To br.

1. The Secretary, Ministry of Welfare, Govt. of India, New Delhi.
2. The Principal, School for Partially, Deaf Children, Yakutpura, Hyderabad.
3. One copy to Mr. K. Satyanarayana, Advocate, 3-6-498, Himayatnagar, Hyd.
4. One copy to Mr. N. R. Devraj, Sr. OGSC. CAT. Hyd.
5. One copy to Library, CAT. Hyd.
6. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHI : MEMBER (A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (JUDL)

AND

THE HON'BLE MR. P. T. TIRUVENGADAM : M(A)

Dated: 5 - 10 - 1993

ORDER/JUDGMENT:

M.A./R.A./C.A. No.

in
O.A. No. 323/90

T.A. No.

(W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions
Dismissed.

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered.

No order as to costs.

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