

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 267 of 1998

Jabalpur, this the 25th day of March 2003.

Hon'ble Mr. Shanker Raju - Member (Judicial)
Hon'ble Mr. R.K. Upadhyaya - Member (Admnv.)

1. Govind Prasad Simhal,
S/o Shri B.D. Simhal,
aged about 49 years,
R/o 256, Sanjivininagar,
(Medical Store Keeper, Dispensary No. 3)
Jabalpur.
2. P.L. Sondhia,
S/o Late Shri R.A. Sondhia,
aged about 49 years,
R/o 120, Gulawar Chowk,
Jabalpur,
(Dresser, Dispensary No. 3)
Jabalpur
3. Smt. Ceilina Varghese
W/o Shri V.A Varghese
aged about 37 years,
R/o 114, A.P.R. Colony,
Bilhari
(Lab. Technician, Dispensary No. 2)
4. G.M. Sharma,
aged about 55 years,
S/o Late Shri Syamlal Sharma
R/o 1376/3A, Ganganagar
Garha, Jabalpur
(H.C. Dispensary No. 2)
5. Smt. Savitri Bai,
W/o Late Shri J.P. Shrivastava,
aged about 45 years,
R/o 908, Napier Town
Jabalpur
6. C.R. Bang,
S/o Shri R.C. Bang,
aged about 37 years,
R/o T.T.C. Colony.
7. Smt. Kamla Bai,
W/o Shri Ram Singh,
aged about 50 years,
R/o 886, Napier Town,
Jabalpur.
Safaiwala
8. National Union of Postal Employees,
Class III, Jabalpur
through Divisional Secretary,
Wren Paul.

APPLICANTS

(By Advocate - Shri S. Paul)

VERSUS

Cont.. 2/-

1. Union of India
through Ministry of Communication,
(Deptt. of Post). Sanchar Bhawan,
New Delhi.
2. Director General,
Department of Post,
Dak Bhawan,
New Delhi.
3. Chief Post Master General
M.P. Circle,
Bhopal

RESPONDENTS

(By Advocate - Shri P. Sankaran)

ORDER (ORAL)

Mr. Shanker Raju, Member (J):

MA for joining together is allowed.

2. Applicants impugn respondents' order dated 11.7.97 whereby their claim for Patient Care Allowance (PCA, for short) being Group 'C' and 'D' non-ministerial cadre of P&T dispensary has been rejected without reasons. Applicants who are working as as Para Medical Staff working in P & T Department holding the posts of Medical Store-keeper, Pharmacist, Lab Technician, Dresser, Nursing Orderly, Female Attendant and Safaiwala, have been performing identical duties and in all respects, as contended, are similar to those of Para Medical Staff of Ministry of Health and Family Welfare, who have been accorded PCA. Learned counsel for applicants states that recently the Ministry of Labour by a letter dated 5.8.2002 has granted PCA to Group 'c' and 'D' non-ministerial staff of dispensary attached to labour welfare organisation with the concurrence of Ministry of Finance. As respondents have not disputed in their reply that the employees working in the P&T dispensary and those working in CHS are performing similar nature of duties and getting the same scale of pay cannot be arbitrarily discriminated in violation of Articles 14, 16 and 39 (d) of the Constitution of India.

3. Shri Paul, learned counsel for applicants further contended that employees are paid PLB which is higher than the bonus given to the employees of CHS dispensary cannot be a ground to deny the benefit as what is to be seen is the object sought to be achieved for equal treatment meted out to similarly circumstanced and as PCA is given for service rendered and duties performed, respondents cannot be allowed to create a class within the class to deprive benefits to applicants. Resort has been placed on the following decisions by Sh. Paul to substantiate his claim on the ground that if parity is established between the posts similar pay and allowances shall be accorded:

- i) Telecom Research Centre Scientific Officers Class-I Association v. Union of India, 1987 (1) SCC 582.
- ii) Randhir Singh v. Union of India, (1982) 1 SCC 618.

4. On the other hand, respondents in their reply denied the contentions and stated that although applicants are performing the similar nature of duties but yet as they have been extended the benefit of PLB which is higher than the bonus paid to employees of CHS dispensary equity claimed in respect of PCA is not well founded. No discrimination is meted out to applicants and they are not entitled for PCA.

5. We have carefully considered the rival contention of the parties and perused the material on record. Apex Court in Union of India v. P.V. Hariharan, (1997) SCC (L&S) 838 has held that in so far pay scales are concerned, unless a clear hostile discrimination is made

out, Tribunal in a judicial review cannot encroach upon the field which has been left to expert bodies like Pay Commissions.

6. However, having regard to the rulings cited by applicants and in view of the decision of the Apex Court in Union of India v. Ram Gopal Aggarwal, JT 1998 (1) SC 126 where there is a dispute regarding equality in grant of ration allowance the Apex Court has held that nature of work, duration, duties attached should be scrutinised with precision treating unequals to be equal would be discriminatory.

7. From the perusal of the facts and circumstances of the present case where the nature and performance of duties as well as scale of pay have not been disputed to be unequal^u and the fact that the PCA has already been accorded to similarly circumstanced by the Ministry of Labour and Ministry ~~of~~^u Health in CHS, depriving the same to applicants is violative of Articles 14 and 16 of the Constitution of India and would amount to discrimination without any reasonable basis.

8. However, as we find that in a judicial review we cannot encroach upon the domain of Government but keeping in view the enshrined principles of equality, the decision of the Government assailed cannot be countenanced and is accordingly quashed and set aside.

9. In the result, OA is partly allowed with the direction to respondents to re-consider grant of PCA to applicants who are Group 'C' and 'D' non-ministerial employees in P&T department at par with CHS employees as well as employees working in dispensaries of Labour Welfare Organisation and in the event they decide to

grant the same to applicants, they shall also be entitled to all the consequential benefits. No costs.

(Signature)

(R.K. Upadhyaya)
Member (A)

(Signature)
(Shanker Raju)
Member (J)

'San.'

पृष्ठान्कन सं ओ/न्या.....जबलपुर, दि.....

पतिमिति अवधि:-

- (1) सचिव, जवाहर नगर धार एसोसिएशन, जबलपुर
- (2) आचार्य श्री/श्री/श्री/कु.....के काउंसल
- (3) प्रत्यक्ष श्री/श्री/श्री/कु.....के काउंसल
- (4) कंधारवा, धार, जबलपुर नगरपालिका
सूचना एवं आवश्यक कार्यवाही हेतु

(Signature)
(Signature)

(Signature)
31-3-63

Issued
on 31.3.03
BS