

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

**OA NO.1717/2012
MA NO.1418/2012**

Order reserved on 01.02.2017
Order pronounced on 08.02.2017

HON'BLE MR P.K. BASU, MEMBER (A)
HON'BLE DR B.A. AGRAWAL, MEMBER (J)

1. Sudesh Sharma,
R/o B-147, Amrit Vihar,
Burari, New Delhi.
 2. Neelu Saluja,
R/o Pocket-E, DDA Flat,
20-D, Dilshad Garden,
New Delhi.
 3. Nirmal Mahajan,
R/o 11/208, Geeta Colony,
Delhi-110039.
 4. Girish Chandra Bhatt,
R/o B-217, Staff Quarters,
LRS T.B. Hospital,
Mehrauli, New Delhi.
- ...Applicants

(By Advocate: Mr. M.K. Bhardwaj)

VERSUS

1. Union of India
through its Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan,
New Delhi-11.
2. The Director,
LRS Institute of T.B. and RD,
Sri Aurobindo Marg,
New Delhi-110030.
3. The Secretary,

Ministry of Finance,
North Block,
New Delhi.

...Respondents

(By Advocate: Mr. Rajinder Nischal for R-1 & 3 and Ms. Neha Bhatnagar for R-2)

:ORDER:

DR BRAHM AVTAR AGRAWAL, MEMBER (J):

MA No.1418/2012

The MA filed under rule 4(5)(a), CAT (Procedure) Rules 1987 stands allowed.

OA NO.1717/2012

The applicants, four in number, serving as Health Visitors in the Lala Ram Sarup Institute of Tuberculosis and Respiratory Diseases, New Delhi (LRS Institute), have filed this OA claiming pay-scale of Rs.4500-7000 w.e.f. 01.01.1996 instead of Rs.4000-6000 relying on the principle of "equal pay for equal work" and in this connection, it is prayed that the LRS Institute's letter dated 15.10.2011 (Annexure A-1) denying the said benefit be set aside.

The said impugned letter reads as under:

"Sub: Representation regarding grant of pay scale of Rs.4500-7000 instead of Rs.4000-6000 w.e.f. 1.1.1996.

Sir,

Refer to your representation dated 21.01.2009 on the subject noted above. It is to inform you that the matter was again submitted to the Ministry with the request to re-examine the case but the Ministry has stuck to its earlier decision and informed that the proposal was not agreed to for grant of pay scale of Rs.4500-7000 instead of Rs.4000-6000 w.e.f. 1.1.1996."

2. The applicants claim parity in pay-scale with Health Visitors working in Safdarjang Hospital and Municipal Corporation of Delhi.

3. We have heard the learned counsel for the parties, perused the pleadings as well as the rulings cited at the Bar, and given our thoughtful consideration to the matter.

4. In **State of M.P. & Ors. Vs. Ramesh Chandra Bajpai** [(2009) 13 SCC 635], the Hon'ble Supreme Court observed as under:

"It is well settled that the doctrine of equal pay for equal work can be invoked only when the employees are similarly situated. Similarity in the designation or nature or quantum of work is not determinative of equality in the matter of pay scales. The Court has to consider the factors like the source and mode of recruitment/appointment, qualifications, the nature of work, the value thereof, responsibilities, reliability, experience, confidentiality, functional need, etc. In other words, the equality clause can be invoked in the matter of pay scales only when there is wholesale identity between the holders of two posts."

5. In **State of Haryana & Ors. Vs. Charanjit Singh & Ors.** [(2006) 9 SCC 321], the Hon'ble Supreme Court held that the doctrine of "equal pay for equal work" means that equal pay must be for equal work of equal value. The Court observed:

"A mere nomenclature designating a person as say a carpenter or a craftsman is not enough to come to the conclusion that he is doing the same work as another carpenter or craftsman in regular service. The quality of work which is produced may be different and even the nature of work assigned may be different. It is not just a comparison of physical activity. The application of the principle of "equal pay for equal work" requires consideration of various dimensions of a given job. The

accuracy required and the dexterity that the job may entail may differ from job to job. It cannot be judged by the mere volume of work. There may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities make a difference. Thus normally the applicability of this principle must be left to be evaluated and determined by an expert body. These are not matters where a writ court can lightly interfere."

6. Further, in **S.C. Chandra & Ors. Vs. State of Jharkhand & Ors.** [(2007) 8 SCC 279], the Hon'ble Supreme Court held that even if the employees in the two groups are doing identical work they cannot be granted equal pay if there is no complete and wholesale identity and for finding out the same, the proper forum is an expert body and not the writ court, as this requires extensive evidence. The Court observed:

"the principle of equal pay for equal work is not always easy to apply. There are inherent difficulties in comparing and evaluating the work of different persons in different organisations. Persons doing the same work may have different degrees of responsibilities, reliabilities and confidentialities, and this would be sufficient for a valid differentiation. The judgment of the administrative authorities concerning the responsibilities, which attach to the post, and the degree of reliability expected of an incumbent, would be a value judgment of the authorities concerned which, if arrived at bona fide, reasonably and rationally was not open to interference by the court. granting pay scales is a purely executive function and hence the Court should not interfere with the same."

7. While the respondents' plea that the Central Pay Commission concerned had not recommended the pay-scale of Rs.4500-7000 for Health Visitors of the LRS Institute seems to be specious and we feel that the impugned order is not a proper response to the claim of the applicants and, therefore, we set it

aside, we cannot directly direct payment of the pay-scale asked for. In the circumstances, the respondents are directed to constitute an independent expert committee, which shall revisit the matter and come to a holistic finding after examining it in all its perspectives. The applicants' submissions shall also be duly considered by the committee. This shall be done within three months from the date of receipt of a copy of this Order.

8. The OA is disposed of with the above directions. No order as to costs.

(Dr. Brahm Avtar Agrawal)
Member (J)

(P.K. Basu)
Member (A)

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