

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A.No.4233/2012

Date of Reserve :27.08.2015

Date of Pronouncement : 08th Sept., 2015

Hon'ble Mr. Justice Syed Rafat Alam, Chairman
Hon'ble Shri P. K. Basu, Member (A)

Ved Pal Singh
S/o. Late Sh. Syam Lal,
Working in CGHS Dispensary No.65,
M. B. Road, Pushp Vihar Sector-1,
New Delhi – 110 017.

.. Applicant

(By Advocate: Mr. Ranbir Yadav)

Versus

1. Union of India,
Through its Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan, New Delhi-110 001.
2. The Administrative Officer,
CGHS South Zone,
R. K. Puram, Sector-8,
New Delhi-110 011.

..Respondents

(Mr. Subhash Gosain)

O R D E R

Shri P. K. Basu, Member (A) :

The applicant was appointed on 10.04.1986 as Lab Attendant in the pay scale of Rs.2750-4400/- in the Central Government Health Scheme (CGHS). The applicant was

promoted to the post of Laboratory Assistant on 12.12.2003 in the pay scale of Rs.3200-4900/-. Through a representation dated 05.12.2011, the applicant prayed for grant of scale of Rs.4000-6000/- instead of Rs.3200-4900/-. The representation was forwarded to the competent authority but was rejected by the competent authority vide impugned order dated 29.03.2012. The applicant's claim for the scale of Rs.4000-6000/- primarily is based on the following :-

(i) The respondents have granted the pay scale of Rs.4000-6000/- to Lab Assistants of the Safdarjung Hospital with effect from 01.01.1996 as also to Lab Attendants working in R. K. A. Kaur College of Nursing, Lajpat Nagar, CRI Kausali Lady Harding Hospital and Dr. R. M. L. Hospital and other various departments. These were as a result of orders passed by the Tribunal. Therefore, he has argued that by not granting the pay scale of Rs.4000-6000/- to the applicant the respondents are acting in a discriminatory manner which is violative of Article 14 and 16 of the Constitution of India.

(ii) Because the recruitment rules, qualification and nature of duties discharged by the applicant is similar and identical to the Lab Assistants of Safdarjung Hospital and other hospitals mentioned above, he should be granted similar pay scales on the ground of parity.

(iii) The applicant specifically referred to order dated 31.01.2004 of this Tribunal in O.A No. 1464/2003 which had been filed by Lab Assistants in Safdarjung Hospital and which had been disposed of by directing the respondents in the wake of the anomaly to pursue the case of the applicants in the Anomaly Committee and to get it finalised within two months.

(iv) The order of the Tribunal in O.A 1401/2006 in which the Tribunal vide order dated 16.01.2007 directed the fixation of pay of the applicants in the pay scale of Rs.4000-6000/- with effect from 01.01.1996. In that case the applicants were Lab Assistants and Technicians in Dr. Ram Manohar Lohia Hospital and sought the benefits of order passed by the Bench in O.A No. 1464/2013.

2. It is stated by the learned counsel for the respondents that the recruitment rules of Lab Assistants in CGHS are different to that of recruitment rules of the Lab Assistants in Safdarjung Hospital.

For CGHS the qualification is :

- (i) Matriculation with Science
- (ii) One year Diploma in recognised Institute in Medical Laboratory Technology (MLT)

For Safdarjung Hospital it is :

- (i) 10 + 2 with science subjects from recognised University or Board.

- (ii) Diploma in Medical Laboratory Technology from an Institute recognised by the All India Council of Technical Education or any other statutory body authorised by the Government for the purpose.

3. It is, therefore, argued that the order of this Tribunal in O.A No. 1464/2003 is not applicable in the present case.

4. We have heard both the learned counsels and perused the judgments produced by both sides.

5. It is settled law that the Tribunal should refrain itself from going into the matters of pay scales and as it is a matter of policy, it should be best left to the Government to be decided on the advice of expert bodies such as Pay Commissions [**Union of India & Another Vs. P. V. Hariharan and Another**, 1997 SCC (L & S) 838; **State of West Bengal Vs. Subhas Kumar Chatterjee & Ors.** (2010) 11 SCC 694]. Unless, there is any illegality which may call for judicial review, we may refrain from interfering. In this case, however, the applicant is requiring us to compare the job requirements of different posts whose recruitment rules are different, essential qualifications are different and job requirements also are not the same. Clearly, based on pay scales awarded to Lab Assistants of Safdarjung Hospital or Dr. R. M. L. Hospital, the case cannot be made out just because the designation is the same, namely Lab Assistants.

This would require a comprehensive exercise of comparison of job requirements of two posts, their qualifications, the recruitment rules, parity with other levels of posts in the different organisations, which this Tribunal cannot go into. Moreover, it is believed that the 7th Central Pay Commission is also in its last stages of finalisation of its report.

6. Therefore, in view of the law settled by the Hon'ble Supreme Court, we refrain from interfering in the matter. The O.A is therefore, dismissed. No costs.

(P. K. Basu)
Member (A)

(Syed Rafat Alam)
Chairman

/Mbt/