

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
Order reserved on: 30.07.2018

ORIGINAL APPLICATION NO. 060/0310/2016

Chandigarh, this the 1st day of August, 2018

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MRS. AJANTA DAYALAN, MEMBER (A)**

...

Geeta Rani age 43 years wife of Shri Pawan Kumar, aged 43 years, working as Technical Officer (T-5), Health Care Centre, Central Soil Salinity Research Institute, Karnal (Group-B).

....APPLICANT

(By Advocate : Shri Anil Bhardwaj)

VERSUS

1. Union of India through the Secretary to Government of India, Ministry of Agriculture, New Delhi.
2. Indian Council of Agricultural Research, Krishi Bhawan, New Delhi through its Director General.
3. Senior Administrative Officer, Central Soil Salinity Research Institute (A Unit of Indian Council of Agricultural Research), Karnal, Haryana.

....RESPONDENTS

(By Advocate: Shri R.K. Sharma)

ORDER

AJANTA DAYALAN, MEMBER (A)

The present Original Application (O.A.) has been filed by Mrs. Geeta Rani seeking relief for correction of the pay scale to Rs. 1400-2300-EB-2600/- from the presently fixed pay scale of Rs. 1200-1560/- at the time of her initial appointment as Staff Nurse on 24.7.1997 with all consequential benefits of arrears of pay and allowances and interest thereon. According to applicant, this is

necessary and justified to bring her at par with her counterpart Mrs. Saroj Bala and others who are working in National Dairy Research Institute (NDRI), Karnal in the same post of Staff Nurse. The applicant came to know about anomaly only in 2007 and has been representing to the department immediately thereafter. Further the applicant is suffering recurring loss in pay.

2. The counsel for the applicant pleaded that the applicant is working in Central Soil Salinity Research Institute (CSSRI) Karnal, which is an autonomous institute of higher learning under the umbrella of Indian Council of Agricultural Research (ICAR). The applicant was appointed as T-2 (Staff Nurse) in the pay scale of Rs. 1200-1560-EB-2040/-. It is brought out that one Mrs. Saroj Bala was appointed as Staff Nurse in NDRI vide letter dated 22.10.1992 in the pay scale of Rs. 1400-2300-EB-2600/- at the initial stage of Rs. 1400/-. The applicant submitted various representations dated 18.3.2006, 10.4.2006 and 20.9.2007 requesting authorities to bring her pay at par with her counterpart Mrs. Saroj Bala and others working in NDRI. Senior Administrative Officer, CSSRI, Karnal vide letter dated 28.11.2007 stated that Smt. Geeta Rani was appointed against post of Staff Nurse advertised in the pay scale of Rs. 1200-2040/- whereas the scale of Staff Nurse sanctioned for NDRI Karnal was Rs. 1400-2600/- and hence nothing could be done by CSSRI. If she desires, she may represent so that the same may be forwarded for consideration/decision to ICAR (Annexure A-8). The applicant submitted representation on 3.12.2007 (Annexure A-9) wherein it has been brought out that the

applicant has the same qualifications and same nature of duties as possessed by Mrs. Saroj Bala and as such her pay may be fixed correctly (Annexure A-10). The applicant again submitted representation dated 15.9.2012 (Annexure A-12) and reminder on 18.10.2012. She again represented on 17.11.2015 (Annexure A-15) stating that the posts of Staff Nurse in the two Institutes carry same qualifications and nature of duties and responsibilities and hence differential in pay scales is illegal.

3. Earlier O.A. filed by the applicant in 2016 was dismissed as withdrawn with liberty to file fresh one with better particulars. Hence this O.A.

4. The respondents vide their written statement have stated that the CSSRI is constituent of ICAR and as per its Rules and Byelaws, it can be sued through Secretary, ICAR only who has not been impleaded as a party. Hence, respondent no. 1 is not proper party. Further, Director of Institute is the employer and not the Senior Administrative Officer and hence respondent no. 3 is neither necessary nor proper party. This O.A. is, therefore, liable to be dismissed for non-joinder of necessary parties.

5. Besides these technical lacunas, the respondents have pleaded that the O.A. suffers from delay and laches as the applicant was appointed in the year 1997 in response to an advertisement issued at that time in the pre-revised pay scale of Rs. 330-560/- revised to Rs. 1200-2040/- in the category of T-2. Hence, the challenge to the said pay scale at this stage is highly belated and is beyond limitation period.

6. The learned counsel for respondents has further stated that the applicant was selected for the said post in response to an advertisement and after completion of recruitment process, which was accepted by her and she joined the institute. As she was very much aware of the fact that the post was in the pay scale of Rs. 1200-2040/-, principle of estoppels applies in her case by her own act and conduct. In the written statement, it is brought out that the post of Staff Nurse at NDRI was filled not on ICAR pattern, but in accordance with the Recruitment Rules of the Safdarjang Hospital, New Delhi after taking approval of the ICAR. Safdarjang Hospital is a bigger organization and the nature of duties and responsibilities are higher qualitatively and quantitatively and hence pay scale of Staff Nurse was also higher. Moreover, the NDRI is a deemed university and its dispensary is bigger than that of CSSIR. In any case, if an exception was carved out for NDRI and that post was filled under different rules at that time keeping in view various circumstances, the applicant cannot now claim parity. In the end, it is prayed that there is no comparison between the posts filed up in the two institutions and exception granted in NDRI cannot be quoted by the applicant in her favour specially as her recruitment was as per the rules applicable to her institution.

7. We have heard the learned counsel for the parties and have gone through the pleadings of the case.

8. The facts of the case are not in dispute. The relief being sought by the applicant is correction of her pay scale from the time of her initial appointment as Staff Nurses in CSSIR in 1997. The

sole ground on which the applicant's case rests is seeking parity with Mrs. Saroj Bala and others working in NDRI who were appointed in the higher pay scale. Besides, the applicant is claiming recurring financial loss and discrimination and the ground for granting her relief though the O.A. is claimed to be within the limitation period. The respondents have strongly contested her claim.

9. On delay, it is clear that the cause of action, if at all, arose way back in 1997 and the O.A. is filed only on 6.4.2016 i.e. almost 2 decades later. The applicant has submitted that she came to know about the 'anomaly' only in 2007 and has been representing to the department since then. Even accepting the argument of the applicant herself, she was aware of the anomaly way back in 2007 and should have agitated the matter immediately before the department and thereafter should have approached this Tribunal. No justifiable cause has been made out for delay in filing of O.A. Section 21 of the Administrative Tribunals Act, 1985 clearly provides that the 'Tribunal shall not admit an application' where the cases are beyond the period prescribed therein. The saving clause 21 (3) whereby the Tribunal is allowed to admit an application beyond the prescribed period if it is satisfied that the applicant 'had sufficient cause for not making the application within such period' also does not help in the present case as no sufficient cause for the delay has been made out. Hence the O.A. needs to be dismissed on this ground alone.

10. Even otherwise, going beyond this, this Court decided to look into merits of the case. The whole case is based on seeking pay parity vis-à-vis Mrs. Saroj Bala and others in NDRI. NDRI is a different organization (though it is also under the umbrella of ICAR) and has a separate set of rules and regulations. Hence, to draw anomaly in pay with reference to employees in that organization is not at all correct or appropriate. Moreover, the applicant was appointed on the post after she applied for the same in response to an advertisement issued in the newspaper in the year 1997 which clearly indicated the pay scale that would be applicable to the post. She can not now claim the benefit of higher scale. On our specific query whether the applicant and Mrs. Saroj Bala are in the same cadre, the counsel for applicant and the respondents stated that they are in different cadres and separate seniority lists are drawn. There is thus no question of drawing of parity between them and consequently, no question of anomaly in pay arises.

11. In view of all above, it is clear that even on merits, no case is made out for pay anomaly in favour of the applicant and the case deserves to be dismissed on merit as well. Accordingly, the O.A. is dismissed being beyond limitation and devoid of merits. No costs.

(AJANTA DAYALAN)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: .08.2018

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