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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.1275 OF 2003

New Delhi, this the 17th day of February, 2004

HON'BLE SHRI SHANKER RAJU, JUDICIAL MEMBER
HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

Mrs. Anju Sethi,
W/o Shri Vimal Kumar Sethi,
Aged about: 36 years,
Resident of: House NO.7,
Rural Health Training Centre Campus,
Najafgarh,
New Delhi.

And Employed as :
Warden in Rural Health Training Centre,
Najafgarh, New Delhi.Applicant

(By Advocate : Shri B.B. Raval)

Versus

1. Union of India,
Through: The Secretary,
Ministry of Health & Family Welfare,
Government of India, Nirman Bhawan,
New Delhi-110011.
2. The Director-General of Health Services,
Directorate General of Health Services,
Ministry of Health and Family Welfare,
Government of India,
Nirman Bhawan,
New Delhi-110001.
3. The Director,
Rural Health Training Centre,
Najafgarh, New Delhi.Respondents

(By Advocate : Shri R.V. Sinha)

O R D E R

SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER :

This application under Section 19 of the Administrative Tribunals Act, 1985 has been filed by the applicant, who is working as Warden in Rural Health Training Centre, Najafgarh, New Delhi, claiming the following reliefs:-

"(1) To quash the impugned Annexure "A" (Memorandum dated 21st January, 2002) as being illegal, arbitrary and violation of the Fundamental Rights of the applicant guaranteed

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under Articles 14 and 16 of the Constitution.

(2) Consequent upon granting the above relief at (1), direct the Respondents to grant the applicant equal pay for work as is being paid to her corresponding counterparts of Home Sister in Raj Kumari Amrit Kaur College of Nursing with effect from 1st January, 1996 along with arrears of pay and all further attendant benefits that may accrue to her with 18% interest till realization.

(3) AWARD exemplary cost for this application with a further request to pass any other order/orders or direction/ directions or grant any other relief/ reliefs as deemed fit and proper in the light of the facts and circumstances of the case."

2. It is stated by the applicant that she was appointed as Warden at Rural Health Training Centre, Najafgarh, New Delhi as per offer of appointment dated 28.11.1989/1.12.1989 (Annexure A-1) and had joined her duties on the said post on 18.12.1989. The applicant was initially granted pay of Rs.1400/- in the pay scale of Rs.1400-2300. After implementation of recommendations of Vth Pay Commission, this pay scale of Rs.1400-2300 has been revised to Rs.4500-7000 w.e.f. 1.1.1996. The grievance of the applicant is that the post of Assistant Warden at Lady Reading Health School is in the pay scale of Rs.4500-7000. The applicant is holding a higher post of Warden. Therefore, she was entitled to higher pay scale of Rs.5500-9000. In this connection, attention was also invited to the recommendations of Vth Pay Commission wherein the cadre review of Home Sisters and Assistant Home Sisters has been discussed at Para 69.45. As per recommendations of the Vth Pay Commission, the post of

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Home Sisters was upgraded to the scale of pay of Rs.1640-2900. The Assistant Home Sisters have been recommended to be placed in the scale of Rs.1600-2600. The Vth Pay Commission also recommended that if the incumbent of the post of Assistant Home Sisters possess the requisite qualifications, they should be upgraded accordingly. One post of Home Sister should also be upgraded in the scale of Rs.2000-3500 and designated as Hostel Superintendent. Learned counsel of the applicant stated that the educational qualification of the applicant is B.Sc. (Home Science) and B.Ed. from the recognised university. Home Sisters working in Raj Kumari Amrit Kaur College of Nursing (RKAKCN) were given higher pay scale of Rs.5500-9000. Since the duties of Warden in Rural Health Training Centre at Najafgarh and those of Home Sisters in RKAKCN are same, the pay scale should be similar. According to the applicant, the duties of the applicant as Warden are more demanding inasmuch as she has to work single handedly for 24 hours whereas Home Sisters and Assistant Home Sisters being three in number do not have to perform such long hours of duties.

3. In the rejoinder filed by the applicant, it has been stated that if the Pay Commission did not consider the case of the Warden, it is not the fault of the applicant.

4. The respondents have opposed this application. It is stated that the applicant had submitted a

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representation dated 7.8.2000 requesting to upgrade her pay scale from Rs.4500-7000 to Rs.5500-9000 on the grounds that her counterpart Warden in Lady Reading Health School and Home Sisters in Rajkumari Amrit Kaur College of Nursing were drawing pay in the pay scale of Rs.5500-9000. The representation of the applicant was considered and the request could not be acceded to as "the post of Home Sister in RAKCN and Warden in RHTC are not comparable as the size of these two institutions, number of inmates and nature of courses conducted by respective institutions are altogether different." The respondents have also stated that this applicant filed on 9.5.2003 is belated as the decision on representation was provided to her on 21.1.2002 itself. The respondents have also stated that the posts of Assistant Warden in Lady Reading Health School have not been filled up since 1993. Therefore, the same has lapsed. This material fact has not been brought on record by the applicant and comparison has been made by reference to incumbent in Lady Reading Health School. The respondents have further submitted as follows:-

"It is further submitted that the following submissions amply clarify the status of RAKCH and the duties and responsibilities of the posts of Home Sisters and Assistant Home Sisters in the RAKCH which is much higher than the post of Warden in RHTC. RAKCN is a premier institution for providing academic impute for a Nursing Career, which is affiliated to Delhi University. This is the only Central Govt. Deptt. Institution offering Degree and above courses in Nursing, which brings it at par with that of AIIMS, New Delhi and PGIMER, Chandigarh. It prepares Nurses for BSC (Nursing Degree, basic and post basic); PG Nursing Degree, M.Phil and Diploma in Nursing Education and Admin Programme. Besides, its School of

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Nursing imparts Diploma qualification in Nursing and Midwifery. Its total hostel intake exceeds more than hundred of students per year at all levels having qualification from post graduate down to 10+2 level entry, whereas, in RHTC, it provides only a two years vocational ANM certificate course of 10+2 level to the students of 10th Standard under the age group of 16-18 and its per year intake is 20 only. Thus, total hostel intake never exceed 40 after taking both 1st year and final year students and therefore, RHTC, in no way may claim status to that of RAKCN and consequent parity of post of Warden and Home Sister."

The respondents have also stated that Warden in Rural Health Training Centre is provided rent free accommodation. The work study unit had recommended one post of Home Sister should be upgraded to the Hostel Superintendent in the pay scale of Rs.2000-3500 in RAKCN but there is no such recommendation sofar as the applicant's case is concerned. Learned counsel further stated that this Tribunal need not go into the details as to whether the pay scales as in other institutions be granted to the applicant as this is the job of expert body like Pay Commission etc. In this case, no such recommendation has been made by the Pay Commission. Therefore no relief should be granted to the applicant.

5.. We have heard learned counsel of the parties and have also perused the material available on record.

6.. The applicant was appointed as Warden in the pay scale of Rs.1400-2300. After the implementation of Vth Pay Commission's report, this pay scale has

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been revised to Rs.4500-7000 w.e.f. 1.1.1996. Merely because the qualification of the applicant is similar or equivalent to Home Sisters of RKAKCN, it does not mean that the applicant should be given the same pay scale. In any case, this is not in the domain of this Tribunal to examine the parity of pay scale which is to be done through expert body like Pay Commission etc. In any case, there is no evidence to show that any hostile discrimination is meted out to the applicant as compared to similarly placed other Wardens in the respondent organisation. The contention of the applicant that she was performing duties 24 hours is also not a relevant factor. This is a matter which the administration has to decide keeping in view the needs of the institution. On merits, therefore, there is no case made out for any interference by this Tribunal. So far as the observations of the respondents regarding the application being time barred is concerned, there is no substantial delay. In any case, we have condoned the delay for the reasons advanced by the applicant.

7. On the facts of this case and for the reasons mentioned hereinbefore, this Original Application is dismissed without any order as to costs.

R.K. Upadhyaya

(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

S. Raju

(SHANKER RAJU)
JUDICIAL MEMBER

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