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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.1609 OF 2003

New Delhi, this the 12th day of April, 2004

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

O.U. Rufus
S/o Late Major Shyam Manohar,
R/o G-60, Aruna Park, Shakarpur,
Delhi.

....Applicant
(By Advocate : Shri M.K. Bhardwaj)

Versus

Union of India and others through,

1. Secretary,
Ministry of Health & Family Welfare,
Nirman Bhawan, New Delhi.
2. Director General,
Health Services,
Nirman Bhawan, New Delhi.
3. Principal & Medical Supdt.,
L.H.M.C. & Smt. S.K. Hospital,
New Delhi.

....Respondents
(By Advocate : Shri Madhav Panikar)

ORDER (ORAL)

SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER :-

This Original Application under Section 19 of
the Administrative Tribunals Act, 1985 has been filed
claiming the following reliefs:-

- "(i) To quash and set aside the Order
No.FVC/Court-III/2002/113 dated 6.1.2003..
- (ii) Direct the respondents to grant the
applicant the pay scale of Rs.330-560
(pre-revised) from the date of his
appointment as Projectionist-cum-Mechanic
with all consequential benefits.
- (iii) Direct the respondents to pay the
difference of pay of revised and
un-revised pay scale.
- (iv) Direct the respondents to pay the 12%
interest to the applicant on the arrears
w.e.f. the due date i.e. September 1974
to the date of actual payment.

Chintan Agarwal

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(v) Any other and further order which this Hon'ble Tribunal deems fit and proper may please also be passed."

2. It is stated that the applicant was appointed in Lady Hardinge Medical College as Projectionist-cum-Mechanic purely on ad hoc basis for a period of three months as per letter dated 10.9.1974 (Annexure A/3). This appointment letter stated that he will draw initially pay of Rs.110 per month in the scale of pay of Rs.110-180. According to the applicant, the pay scale mentioned was wrong as the scale of pay of Projectionist-cum-Mechanic was Rs.310-560 instead of scale of pay of Rs.110-180. In support of his claim, the applicant has filed a copy of order dated 3.6.1975 (Annexure A-II) in the case of Shri R.K. Sachdeva, who was posted in Safdarjung Hospital on transfer from Chandigarh. The applicant had earlier filed OA No.1880/20002, which was disposed of by order dated 19.7.2002 with the following directions:-

"Respondents 2 and 3 are directed to consider the aforesaid representation made by the applicant together with the facts and grounds taken by him in the present OA regarding his claims for revision of the pay scale from the due dates. If his claims are being rejected, they shall pass a reasoned and speaking order with supporting documents/rules with intimation to the applicant. This shall be done within two months from the date of receipt of a copy of this order."

3. The impugned OM dated 6.1.2003 (Annexure A-I) is stated to have been passed in pursuance of the above directions of the Tribunal. The learned counsel



of the applicant states that the directions given have not been properly followed inasmuch as respondents have not taken into account even their own notification of higher pay scale. According to the learned counsel of the applicant, the respondents had recommended the pay scale of Rs.1350-2200 as per their letter dated 26.3.1992. However, this was held not applicable to the applicant on the ground that that related to Projectionist and not for Projectionist-cum-Mechanic. The learned counsel pointed out to notification dated 13.11.1987 (Annexure A-IV) issued by the respondents in respect of Projectionist of Safdarjung Hospital. The claim of the applicant is that Projectionists are holding the same qualification as the applicant rather the applicant is performing the duties of mechanic also. Therefore, distinction made out is not called for.

4. The respondents have opposed the claims of the applicant. It has been stated that if the applicant is aggrieved by grant of pay scale of his initial appointment in 1974, the present Original Application is highly belated and deserves to be rejected on this short ground of delay and laches. It has further been pointed out that the applicant was initially appointed on ad hoc basis. At the time of his appointment, this employer Institution was not under the Central Govt. It is further pointed out that a comparison of pay scale in different institutions cannot be made. The

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responsibilities/duties involved with the post of applicant are much less than those attached to the post of Projectionist in other Govt. hospitals, including Ram Manohar Lohia Hospital and Safdarjung Hospital.

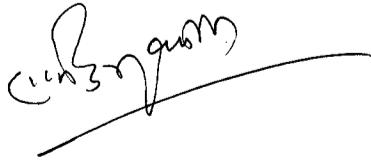
5. We have heard the learned counsel of both the parties and have perused the material available on record.

6. No doubt the impugned order has apparently been passed in compliance to the orders of this Tribunal dated 19.7.2002 in OA No.1880/2002. However, we feel that the points raised by the applicant have not been considered by giving adequate reasons for the rejection. It is a fact that the applicant accepted a posting on the basis of pay of Rs.110/- in the year 1974, and the claim of higher pay scale from the date of initial appointment is highly belated and may not perhaps be entertained on account of delay and laches. There is no dispute that a person cannot claim relief if he has all along slept over his rights. Raising grievance at this belated stage of the scale in which the applicant could have been appointed in 1974 cannot be entertained. In any case, any grievance pertaining prior to three years from the date of inception of the Central Administrative Tribunal cannot be gone into by this Tribunal. However, this does not debar the respondents to consider the claim of the applicant as a model employer. If the scales were changed from

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26.3.1992, the same could have been considered. Mere different distinction (Projectionist as compared to Projectionist-cum-Mechanic) does not automatically deprive the applicant for being considered for the relief.

7. At the time of hearing, the learned counsel of the applicant as well as respondents' learned counsel were asked to produce a copy of the Recruitment Rules in which the pay scales are generally stated. It is regretted that in spite of waiting for a couple of days and after reminding the counsel in the Court, the same has not been placed for our perusal. It is, therefore, not possible for this Tribunal to express any opinion regarding claim of the applicant vis-a-vis the provisions contained in the Recruitment Rules. Therefore, we feel that the respondents as a model employer should re-consider the claim of the applicant in the light of the provisions of the Recruitment Rules as well as their subsequent notification granting higher pay scale. The Hon'ble Supreme Court in the case of State of Orissa and Ors. Vs. Balaram Sahu and Ors. (2003) 1 Supreme Court Cases 250 have held that "equal pay for equal work" depends not only on the nature or volume of work but also on the qualitative difference in reliability do make a real and substantial difference. It is directed that respondents may consider the actual duties performed by the applicant and examine whether the higher scale of pay is admissible to him. For

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this purpose, the applicant is directed to send a copy of this OA along with a copy of this order for consideration of the respondents. In case, the applicant complies with the above directions, the respondent No.2 is directed to re-consider the case of the applicant by passing a speaking and reasoned order within a period of three months from the date of its receipt under intimation to the applicant.

8. In view of the directions given in the preceding paragraph, this Original Application stands disposed of without any order as to costs.



(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER



S. Raju
(SHANKER RAJU)
JUDICIAL MEMBER

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