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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 2372 of 2003

New Delhi, this the 19th day of April, 2004.

HON'BLE MR. V. K. MAJOTRA, VICE CHAIRMAN (A)
HON'BLE MR. KULDIP SINGH, MEMBER(JUDL)

1. Jagdish Parkash S/o Late Mangli Ram
R/o B-51/2D Kali Bari Mg. DIZ, New Delhi.
2. Mrs. Veena Bansal W/o U.G. Bansal
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4. Mrs. Usha Sharma W/o Shri R.K. Sharma
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5. Mrs. Usha Devi Sharma W/o Shri R.N. Sharma
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8. Mrs. R.K. Tandon W/o Late Shri I.K. Tandon
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9. Mrs. Kusum Chowdhary W/o Shri D.K. Chowdhary
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10. Mrs. Pramod Kalra W/o Shri G.K. Kalra
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12. Mrs. Gulab Tirkey W/o Blacius Tirkey
R/o 14/877 Lodhi Colony, New Delhi.
13. Inderjit Singh S/o Lt. Karam Singh
186-Pocket-B Mayur Vihar, P-II,
Delhi. .. Applicants

(By Advocate: Shri Deepak Verma)

Versus

1. The Chairman,
Staff Selection Commission,
CGO Complex, Block-12, Lodhi Road,
New Delhi.

2. The Secretary,
Department of Expenditure, Ministry
of Finance,
North Block,
New Delhi.

3. The Secretary,
Department of Personnel & Training (DP&T)
North Block, New Delhi. . . Respondents

By Advocate: Shri Ravinder Sharma, proxy counsel for
Shri R.P. Aggarwal, Counsel)

O R D E R (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (Jud1)

This is a joint application filed by 13 applicants as they have a common grievance about the non-implementation of the 5th Pay Commission's recommendations.

2. The applicants allege that after the 4th Pay Commission Seshagiri Committee was constituted to bring in uniformity in the pay scales of existing EDP posts in all Departments/Ministries of Government of India. The applicants were working on a post known as Technical Assistant (Hollerith) under the respondents and in accordance with the existing Recruitment Rules they were redesignated as Data Processing Assistant-A (DPA-A) w.e.f. 11.9.1989 and their pay scales were revised to Rs. 1600-2660 in accordance with the recommendations of the Seshagiri Committee which was accepted by the Government of India.

3. It is further stated that Recruitment Rules were further notified by the Staff Selection Commission (respondents) on 10.10.1996 for the post of DPA-A and had relaxed the eligibility conditions regarding

qualification in respect of applicants who were regularly appointed earlier as Technical Assistants (Hollerith) in accordance with the then Recruitment Rules in force before commencement of these rules.

4. It is further submitted that the 5th CPC as per their report enhanced the pre-revised scale of DPA-A from Rs.1600-2660 to that of Rs.1640-2900 and recommended the replacement scale fo Rs.5500-9000 w.e.f. 1.1.1996 which scale had been implemented in various Ministries/Departments in respect of DPA-A but now this pay scale is being denied to the applicants on the plea that they do not possess the qualification as required for the post of DPA-A.

5. It is further stated that scale of Data Entry Operator-C which is a feeder cadre post of DPA-A and their scale has been enhanced by the respondents from Rs.4500-7000 to Rs.5000-8000 bringing the scale at par with that of higher post of DPA-A on the plea that the qualification in the case of DEO-C will not be insisted upon. As such it is submitted that although the applicants are working on higher post DPA-A but are being paid revised scale of Rs.5000-8000 applicable to lower feeder post of DEO-C.

6. It is further stated that the Tribunal had vide an order dated 23.10.2002 in OA 33/2002 had allowed a similar OA wherein the case of employees who were working under the Ministry of Health and Family Welfare

and on the same analogy this OA should also be allowed and the applicants should be given the pay scale of Rs.5500-9000 as recommended by the 5th Pay Commission.

7. It is further submitted that the action of the respondents operates in a discriminatory, arbitrary and mala fide manner by allowing upgraded pay scale of Rs.5000-8000 to the feeder post of DEO-C without the qualification being insisted upon.

8. It is also pleaded that once the Recruitment Rules specifically provide in the saving clause that the qualifications are not to be insisted upon in the case of Technical Assistant (Hollerith) after they had been designated as DPA-A so the respondents vide their administrative instructions cannot supersede the statutory rules and insist the qualification of erstwhile Technical Assistant (Hollerith) to the extent that they must also possess the same qualification which fresh DPA-A is required to possess.

9. The OA is being contested by the respondents. The respondents in their reply also pleaded that according to the new Recruitment Rules which were notified on 10.10.1996, the educational qualification for the post of DPA-A require degree of recognised university with Science, Maths, Economics, Statistics or equivalent and Diploma/Certificate in computer application from a recognised institution or knowledge of Programming, System Operations and Systems Analysis etc.

10. It is further stated that after the implementation of the Vth CPC, the DPA Grade-A working in SSC were given the pay scale as per recommendations contained in Part 'A' of the report which were applicable to the General posts in Central Government offices as they are not having the qualifications as prescribed in the Recruitment Rules notified on 10.10.1996. Thus they were granted the pay scale of Rs.5000-8000 which is the replacement scale for the scale of Rs.1600-2660 and since none of the applicants fulfil the educational qualification so they cannot claim the pay scale of Rs.5500-9000. It is denied that the action of the respondents is arbitrary, discriminatory so the OA should be dismissed.

11. We have heard the learned counsel for the parties and gone through the records of the case.

12. At the outset we may mention that the Recruitment Rules, as placed on record by the respondents vide Annexure R-I itself in paragraph 5 mentions that all persons appointed on regular basis as Puncher-cum-Verifier (Hollerith) before the commencement of these rules shall be deemed to have been appointed as Data Entry Operator Grade-A. Similarly all the persons regularly appointed as Technical Assistant (Hollerith) before commencement of these rules shall be deemed to have been appointed as Data Processing Assistant Grade-A under these rules. The eligibility conditions regarding qualification, experience etc. prescribed under these rules shall be relaxed in their favour to the required extent. Thus we find that once the Recruitment Rules

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itself had given the one time relaxation to Technical Assistant (Hollerith) regarding eligibility conditions and qualifications the respondents now cannot discriminate against these applicants by giving them lesser pay than their counter-parts who had been appointed as DPA-A under the new rules.

13. Besides that we are also supported by an order passed in OA 33/20002 where the same issue had been raised by the respondents wherein we had also observed as follows:-

" We find that vide para 55.71 of their report, the Vth CPC has recommended the pay scale of Rs.1640-2900 for Data Entry Operator Grade-D/Junior Console Operator/Data Processing Assistant 'A'/ Scientific Assistant in place of Rs.1600-2660. We also find from para 'B' of the Gazette of India Notification that the aforesaid pay scale has been revised to Rs.5500-175-9000 as a result of acceptance of the recommendations of the Vth CPC. No specific condition, whatsoever, has been recommended by the Pay Commission, while recommending this pay scale."

14. The case of the present applicants are at par with the applicants in OA 33/2002 since the qualifications of the applicants had not been insisted upon while framing the Recruitment Rules also and a relaxation had been given to them so for all practical purposes the applicants had become DPA-A and they cannot be discriminated for the purpose of their salary. Hence we quash the impugned order and direct the respondents to give the pay sales of Rs.5500-9000 to the applicants w.e.f. 1.1.1996 as recommended by the Vth CPC along with other consequential benefits. This may be done within a period of 3 months from the date of receipt of a copy of this order. No costs.

Kuldeep
(KULDIP SINGH)
MEMBER (J)

V.K. Majotra
(V.K. MAJOTRA)
VICE CHAIRMAN (A)

19-4-04