

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO.2699/2003

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

HON'BLE MR. JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE MR. S.K. NAIK, MEMBER (A)

1. Central Secretariat Non-Gazetted Employees Union (Recognized)
Through General Secretary
Sh. Bhim Chand,
2338, Kali Masjid, Bazar Sita Ram,
Delhi – 10 006
2. Shri Sultan Singh
R/o Qtr. No.770, Sector-7, Pushpa Vihar,
New Delhi – 110 017
3. Shri S.S. Aswal,
R/o 4/46, Panchkuain Road,
Mandir Marg, New Delhi – 110 001
4. Shri Suresh Kumar,
R/o Village Ghitorni,
New Delhi

..... Applicants

(By Advocate : Shri Surinder Singh)

Versus

1. Union of India through
Secretary,
Ministry of Personnel, Public Grievances & Pensions,
(Department of Personnel & Training),
New Delhi – 110 003

..... Respondent

(By Advocate : Shri Madhav Panikar)

O R D E R (ORAL)

The applicants are Group 'D' employees in the Central Secretariat. By virtue of the present application, they seek setting aside the impugned OM dated 1.6.2001 and the orders in pursuance thereof passed by the Department of Personnel & Training. The precise grievance of the applicants is that as per Recruitment Rules for the post, i.e., Group 'D' post, the minimum educational qualification is Middle Pass and for the Assured Career Progression Scheme vide



impugned Office Memorandum for the higher scale, it has been prescribed that those who are Matriculates will get the scale of Lower Division Clerk while it is being denied to non-Matriculates. According to the learned counsel, this tantamounts to discrimination between equally placed persons and, therefore, the impugned Office Memorandum should be quashed and applicants should be treated at par with those who are Matriculates.

2. It is not in dispute that the applicants are non-Matriculates.
3. Vide the Office Memorandum which is impugned, the following facts have been mentioned which reads –

"This is, however, subject to the following:-

(i) First financial up gradation on completion of 12 years of regular service shall be at least to the pay-scale of Rs.2610-60-2910-65-3300-70-4000 (S.2A).

(ii) The second financial upgradation on completion of 24 years of regular service shall be allowed at least to the pay scale of Rs.2750-70-3800-75-4400 (S-4). However, where Group 'D' civilian employees of the Central Government are Matriculates and are eligible for promotion to the post Lower Division Clerk (LDC), the second financial upgradation in their case shall be allowed at least to the pay scale of Rs.3050-75-3950-80-4590 (S-5)."

4. Needless to state that in the reply filed, the petition has been contested. The learned counsel for the respondents has drawn our attention to certain decisions of this Tribunal in OA No.1342/2002 titled Mahinder Pal Sharma vs. Union of India & Another. The same question had come up for consideration. The question was answered –

"4. To state that prescribing of the educational qualification is discriminatory and, therefore, should be held to be illegal, would not be correct. This is not discrimination because equality has to be amongst equals. If educational qualifications are prescribed for a particular post or in the recruitment rules, in that event when it is prescribed that a person should be matriculate before he should take the benefit of the Scheme, this is not discrimination but keeping in view the object that has to be achieved. The object to be achieved is that persons who are well qualified should only get the benefit of the Scheme and we, therefore, have no hesitation to hold that it is not discrimination.

5. Admittedly the applicant is not matriculate and, therefore, has been denied the benefit of the Scheme. That being so, the present application must be deemed to be without any merit. It must fail and is accordingly dismissed."

LS Ag _____ e

5. In another decision rendered by this Tribunal in OA No.2196/2000 decided on 3.7.2001 titled Girish Chandra vs. Union of India & Others, a similar controversy had arisen. The Tribunal held that the Government servants do not have an absolute right to secure financial upgradations.

6. On parity of reasoning that flows with, the applicants cannot, therefore, contend that they are discriminated.

7. The Supreme Court in the case of Gabriel Saver Fernandes and Others vs. State of Karnataka and Others (1995 Supp (1) Supreme Court Cases 149) held that for different pay scales, different qualifications are prescribed. The same would not be invalid.

8. Resultantly, taking stock of the above decisions, the OA must necessarily fail and the same is accordingly dismissed.

S.K. NAIK
(S.K. NAIK)
Member (A)

V.S. AGGARWAL
(V.S. AGGARWAL)
Chairman

/pkr/