

(2009) 04 MAD CK 0167

In the Madras High Court

Case No : Writ Petition No. 14005 of 2004 and W.P.M.P. 16502 of 2004

Prathiba Malik, Ajal Malik, Krishna Devi and Harinarayan
Trivedi

APPELLANT

Vs

Union of India (UOI) and The Registrar, Central
Administrative Tribunal, Madras Bench

RESPONDENT

Date of Decision : 09-04-2009

Acts Referred:

Citation : (2009) 04 MAD CK 0167

Hon'ble Judges : P.K. Misra, J;D. Hariparanthaman, J

Bench : Division Bench

Advocate : Party in Person for K. Moorthy, for the Appellant; K. Elango, Asst.
Solicitor General for respondents 1 and 2, for the Respondent

Final Decision : Allowed

Judgement

P.K. Misra, J.—Counsel for the petitioners is not present. However, first petitioner is present in person. She has argued the matter on behalf

of the petitioners. We have also heard Mr. K. Elango, Assistant Solicitor General of India, on behalf of respondents.

2. The question relates to scale of pay to the petitioners who are Hindi Pradhyapakas in Chennai and Pondicherry of Central Hindi Training

Institute, New Delhi. The petitioners claim that they should be given higher scale of pay at least on par with Assistant Director (Hindi Typing and

Shorthand) working in the same Institute. The duty of Hindi Pradhyapakas is to teach Hindi to all the employees of the Central Government starting

from the cadre of Lower Division Clerks to Top level officers. The minimum essential qualification prescribed for such post is M.A. Hindi with

English at Degree level and a Bachelor Degree in Education. They were slotted in

the pay scale of Rs. 7500-12000/- which came into effect from

1.1.1996 and their next promotional post was Assistant Director (Hindi Language).

3. The petitioners' claim that in the same organisation, direct recruitment is made for the post of Assistant Directors (Hindi Typing and Shorthand)

whose duty is to teach Hindi Typing and Shorthand to such clerks/ Typists. The minimum educational qualification prescribed is a pass in Higher

Secondary (Plus Two) with knowledge of Hindi Typing and Shorthand. The pay scale prescribed for them is Rs. 8000-12000.

4. The next promotion for the post of Assistant Director (Hindi Typing and Shorthand) is Deputy Director and similarly the promotional post for

Assistant Director (Hindi Language) is Deputy Director.

5. In other words, even though the essential duty is teaching for both, and minimum qualification prescribed to Hindi Pradhyapak, as compared to

Assistant Director in Hindi Typing and Shorthand is much higher, the Hindi Pradhyapak are slotted below the Assistant Director (Hindi Typing

and Shorthand) and only after getting promotion they come to the scale of pay of Assistant Director (Hindi Typing and Shorthand).

6. In earlier round of litigation, the Tribunal has given direction to consider the representation of the petitioners. However, in spite of such direction,

the Central Government rejected the representation by observing that their pay scale had been fixed on par with Post Graduate Teachers' Pay

scales. It was also stated in the order dated 27.5.2003, that the next line of promotion for Hindi Pradhyapak being Assistant Director, their claim

that they should be given minimum pay scale of Rs. 8000-12000 which is the scale of promotional post, was not acceptable. The Tribunal has

observed that the question of fixation of particular pay scale is a matter for the experts to decide and normally the Courts of law would not

interfere. On that footing the Original Application has been rejected. This is the subject matter of the present writ petition.

7. The first petitioner has submitted that the persons like the petitioners and the directly recruited Assistant Directors (Hindi Typing and Shorthand)

are working in the same organisation of Central Hindi Training Institute; she also states that the duty of the directly recruited Assistant Directors

(Hindi Typing and Shorthand), who are required to have the educational

qualification of Higher Secondary and Hindi Typing and Shorthand, is to teach Hindi Typing and Shorthand to Lower Division Clerk level employees; she further states that the duty of the Hindi Pradhyapak like petitioners, who are required to possess M.A. in Hindi with English at Degree level and a Bachelor Degree in Education is also to teach Hindi to all the employees from Lower Division Clerk to higher level officers. Though Assistant Directors (Hindi Typing and Shorthand) possess lesser qualification and teach only at Clerks level they are getting higher scale of pay. It is true that the nature of duty is similar in the sense that the Hindi Pradhyapak is to teach language to various employees whereas the Assistant Director (Hindi Typing and Shorthand) has to teach typing and stenography. It is rather strange that in the same organisation, a person apparently less qualified academically starts with higher scale of pay, than a person who is discharging similar role of teaching to other employees. We are conscious of the position of law. Normally, pay scales are left to the experts. However, in spite of clear directions and observations in the earlier occasions, the departmental authorities have reiterated the earlier position and sought to justify higher pay scales to lesser qualified Assistant Directors (Hindi Typing and Shorthand) and lower pay scale to higher qualified Hindi Pradhyapaks. This is too shocking to our judicial conscience and therefore, we are restrained to interfere though in the normal course, such a matter is left to the appropriate Government to decide. Instead of remitting the matter for fresh consideration, we think it is appropriate to issue mandamus because in spite of earlier directions, the Government failed to remedy the situation and the matter is pending for a long period. We also understand that in the VI Pay Commission, similar anomalous position has continued. Therefore, in these peculiar circumstances, we deem it proper to quash the order of the Tribunal and direct that the Hindi Pradhyapaks should be given the pay scales at least on par with the Assistant Directors (Hindi Typing and Shorthand) in the pay scale of Rs. 8000-12000.

8. The submissions made by the Assistant Solicitor General, that in fact the next line of promotion for Hindi Pradhyapaks being Assistant Director, claim of the petitioners that they should be given minimum pay scale of Rs. 8000-12000 for Hindi Pradhyapaks is not justified and that they cannot

get the pay applicable to the promotional post even though prima facie attractive, cannot be accepted. On deeper scrutiny, continuing such an

anomalous position, shocks to our judicial conscience. Therefore, the post of Hindi Pradhyapak should be equated with the Assistant Director

(Hindi Typing and Shorthand) as well as the Assistant Director (Hindi Language) and the next promotional post can be considered as Deputy

Director for both. This would be implemented from the date of this order.

9. With the above observations, the writ petition is allowed. No costs. Consequently, W.P.M.P. is closed.