

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29/08/2002

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THE HONOURABLE MR. JUSTICE P.K. MISRA

W.P.NO. 17776 OF 2000

and

W.M.P.No. 25757 OF 2000

Mr.S. Rajan .. Petitioner

-Vs-

1. The Secretary,
Department of ISM & H,
Ministry of Health and
Family Welfare,
New Delhi 110 001.

2. The Director,
Central Council for Research
in Homoeopathy,
61-65 Institutional Area,
D Block, Janakpuri,
New Delhi 110 058. .. Respondents

Petition filed under Article 226 of the Constitution of India for the
issuance of Writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr. Rajkumar Paul

For Respondents : Ms. B. Saraswathi

:J U D G M E N T

The facts giving rise to the writ petition briefly stated are
as follows :-

The petitioner joined under the second respondent as Field Assistant
on 12.3.1984 and subsequently he was appointed against the post of Field
Botanist from 27.12.1991. The first respondent had issued a Circular dated
22.12.1995 relating to career advancement of employees in Central Council for
Research in Homoeopathy. Clause-c of the aforesaid Circular is quoted here
under :-

“ c) In the case of Research Assistant (Homoeo), wherein the

prescribed qualification for the post is a degree in Homoeopathy, the post may be converted to ARO (Rs.2000-3500) and the existing incumbents may be promoted to the grade of ARO. In case of Research Assistant (Chemistry), the post may be operated in the scale of Rs.1640-2900 if the prescribed essential qualification is M.Sc. in the relevant subject. . . . ”

On the basis of the aforesaid circular, the petitioner made representations to the respondents. In accordance with clause-c benefit was given to Mr. Sanjay Kumar Sharma with effect from 22.12.1995 but the case of the petitioner was not considered for which he had filed W.P. No.17881 of 1999. During pendency of the aforesaid writ petition, the respondents considered the representation of the petitioner and directed that the petitioner should be paid at the enhanced rate with effect from June, 1999. The petitioner has filed this writ petition claiming that he should be paid such enhanced scale of pay with effect from 22.12.1995 when similar benefits have been extended to another employee, namely, Sanjay Kumar Sharma.

2. A counter affidavit has been filed on behalf of the respondents wherein it is indicated that qualification for recruitment of Research Assistant in Chemistry and Field Botanist were different and only subsequently as per the amended rules it was laid down that for appointed as Field Botanist, a candidate must have passed M.Sc., and should have aptitude for research whereas before such amendment, Field Botanists could be recruited with first or high second class degree in Botany and two years experience in Field work of Survey and collection of plants. It has been therefore stated that only after such amendment was made, the circular relating to career advancement which envisaged M.Sc., as the essential qualification, has been made applicable to the petitioner.

3. The aforesaid submission of the learned counsel appearing for the respondents though appears to be attractive on the face of it, does not bear closer scrutiny. The relevant recruitment rules have been produced by the Counsel appearing for the respondents. The aforesaid rules indicate that for the post of Field Botanist, the following had been prescribed as education and other qualifications :

Essential:

1. First or high second class degree in Botany from a recognised University.

2. 2 years experience in Field work of Survey and Collection of plants in a recognised Institution.

4. So far as the post of Research Assistant (Chemistry), the following qualification is prescribed :-

Essential:

1. First or high second class degree in the concerned discipline from a recognised University/Institution.

2. 2 years Research/Teaching experience in the concerned discipline after obtaining the degree in a recognised University/Institution/ College.

5. A perusal of the aforesaid two provisions makes it clear that the only difference was relating to alternative educational qualification prescribed for Research Assistant (Chemistry), namely , first or high second class degree in the concerned discipline. However, in my opinion, this distinction is without any difference and does not justify the discriminatory treatment meted out to the petitioner. Comparison of pay scale and nature of work makes it clear that there was hardly any difference between the post of Field Botanist and Research Assistant (Chemistry). The essential qualification required for a Field Botanist was almost similar to first type of educational qualification for Research Assistant in Chemistry. Since practically there was no distinction in the nature of work and posts were in similar grade of pay, there is no reason for not treating the petitioner in similar fashion.

5. For the aforesaid reasons, I allow the writ petition and direct that the benefits which were extended to Research Assistant (Chemistry) with effect from 22.12.1995 should also be extended to the petitioner and the amount payable for the period prior to June, 2000 may be paid to the petitioner within a period of three months from the date of communication of the order. No costs. Consequently, WMP.No.25757 of 2000 is closed.

29-08-2002

Index : Yes

Internet: Yes

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To

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P.K. MISRA, J.

Judgment in W.P.No.17776/00
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