

CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH

OA 3328/2002

New Delhi, this the 7th day of January, 2004

Hon'ble Sh. Shanker Raju, Member (J)
Hon'ble Sh. Sarweshwar Jha, Member (A)

1. Jagdish Prasad Sharma
S/o Sh. Bishamber Sharma
R/o Defence Colony, Muradnagar.

2. S.P. Singh
S/o Sh. Karam Singh
Ganga Vihar Colony
Jalapur Road, Muradnagar.

...Applicant

(By Advocate Ms. Chetna Rao
proxy for Sh. M.K. Bhardwaj)

V E R S U S

1. Union of India through
The Secretary
Ministry of Defence
♦ South Block, New Delhi.

2. The Chairman
Ordnance Factory Board
6-Esplanade East, Kolkata.

3. The General Manager
Ordnance Factory, Muradnagar.

...Respondents

(By Advocate Sh. S.M. Arif)

O R D E R (ORAL)

Shri Sarweshwar Jha,

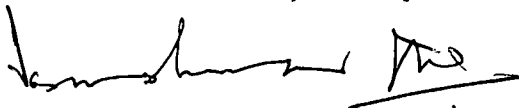
The applicants who have been working as Laboratory Assistants (Lab Assts.) with the respondents have prayed for setting aside the respondents' letters/orders dated 28-10-2002 and 12-8-2002 rejecting their claims for revision of their scale of pay and for directions being given to the respondents to revise their scale of pay in the grade of Rs. 4500-7000 at par with the Primary Teachers in terms of the recommendations of the Fifth Central Pay Commission with all consequential benefits.

- 2/-

[Signature]

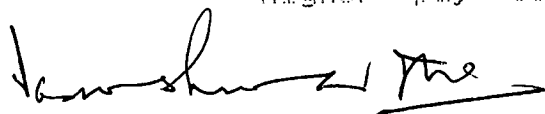
2. Briefly, the applicants, tracing the history of their scale of pay as Lab Assts. particularly the one recommended by the IV CPC, have claimed that their scale of pay should have been at par with the scale of pay of the Primary Teachers. A mention has been made to the fact that a separate Commission for Teachers had been set up under the Chairmanship of Prof. Chattopadhyaya after the IVth CPC and which recommended new scales of pay for all categories of school employees. However, there being no specific recommendations for the Lab. Assts. in the recommendations of the said Commission, the Lab. Assts. also were given the same scale of pay as was granted to the Primary Teachers. They have also inferred that the Lab Assts., having been included in the SRO 1991 (which relates to teachers), have always been treated as teaching staff. However, this fact does not seem to have been accepted by the Vth CPC who have granted different scale of pay to the Lab Assts. which is lower than that of the scale of pay for the Primary Teachers. The replacement scale recommended by the Vth CPC in the case of Lab Assts. is Rs.4000-6000, whereas the scale of pay for the Primary Teachers is Rs.4500-7000. Obviously, the applicants have a grievance that, by being given a lower scale of pay than what they had been enjoying since the IVth CPC/Chattopadhyaya Commission's recommendations, they have been discriminated against and that the respondents have rejected their claims arbitrarily.

3. The respondents have relied upon the recommendations of the Vth CPC only and have submitted that there being specific replacement scale for the Lab Assts., the same has been extended to them and that their parity with the primary teachers is, therefore, not relevant nor merited. In this connection, they have also given a brief account of the



positions held by the two applicants since December, 1992 when they were initially appointed as Lab. Assts. in the pay scale of Rs.1200-30-1560-ER-40-2040 as recommended by the IVth CPC w.e.f. 1-1-1986 and that they have been working in the same grade in the scale of Rs.4000-100-6000 as recommended by the Vth CPC w.e.f. 1-1-1996. From the tabular statement which the respondents have given on page 2 of their counter in respect of the scales of pay recommended by the IIIrd CPC w.e.f. 1-1-1973, IVth CPC w.e.f. 1-1-1986 and the Vth CPC w.e.f. 1-1-1996, it is observed that the scales of pay of both, Primary Teachers as well as Lab. Assts., have always been different excepting during the post IVth CPC period when they were clubbed with the Primary Teachers after the Chattopadhyaya Commission Report for the reasons not very clearly stated in the submissions made by both the sides. Incidentally, in the report of Prof. Chattopadhyaya Commission, the post of Lab. Assts. had not been specifically mentioned nor their scale of pay along with the Primary Teachers. As regards SRO 91 of 1995, it has been explained that the scale of pay of Lab. Assts. had not been shown in the said SRO separately. A mention has also been made about the difference in the educational and other qualifications required for direct recruitment to the grade. Reflecting on the IVth CPC recommendations in regard to the Lab. Assts., it has been explained that this post has not been mentioned in the Commission's report. The matter has received consideration of the Ministry of Defence to whom a reference was made by the Ordnance Factory Board vide their letter dated 17-7-2002 and the said Ministry have observed the following :-

"In the case of Teacher (Primary), the Pay Commission has specifically recommended higher pay scale of Rs.4500-7000, while no



- 4/-

- 4 - (18)

such recommendation was made in the case of Lab. Assistant. Therefore, they have been given the replacement scale".

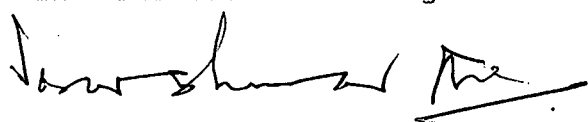
Even the Lab. Assistant in the KVS School been given the replacement scale of Rs. 4000-100-6000 the same that has been given to the Lab. Assistant in Ordnance Factory Schools."

In the case of Lab. Assistant in scientific personnel Air Force they have been given the higher pay scale of Rs. 4500-125-7000. However, it is noted that the entry recruitment qualification to this post is B.Sc with one year experience.

This is much higher than the entry recruitment qualification of Lab. Assistant in Ordnance Factory School which is higher Secondary with 2 years experience in the relevant subject and competency to teach both in English and regional languages. Therefore, drawing parallel with the pay scale of Lab. Assistant in Scientific Personnel of Air Force is not justified".

The decision of the Ministry of Defence has since been conveyed to the applicants vide the respondents' letter dated 12-8-2002 (the impugned letter). Though the applicants represented to the Ministry of Defence on 1-1-2002 and which was considered by the General Manager of the Ordnance Factory and who, having considered the matter, informed the applicants that the decision of the Ministry of Defence in the matter had already been conveyed to them, did not pursue the matter with the Ministry any further.


4. On perusal of the detailed reply given by the respondents, it is observed that they have broadly taken the plea that the scale of pay of Primary Teachers, i.e., Rs. 4500-7000/- is nowhere available to the Lab. Assts. In this case, they have referred to the Lab. Assts. in the Kendriya Vidyalayas where their scale of pay is only Rs. 4000-6000. Referring to the recommendations of Prof. Chattopadhyaya Commission also, the respondents have maintained that while specific scale of pay was recommended in the various categories of Teachers, Lab. Asst. was not



2

mentioned at all in the report of the said Commission. The question of their scale of pay being at par with the scale of pay of Primary Teachers as recommended by the said Commission, therefore, does not appear relevant. They have also disputed the claim of the applicant that Lab. Assts. belong to the same cadre as the cadre of Teachers (Primary, Drawing, Master and Craft), as these categories of staff have separate SRO. They have also identified difference in the educational qualifications of the two categories. While in the case of Primary Teacher, diploma in teaching education or basic training certificate as an additional qualification is required, no diploma from any training institute is required for the Lab. Assts.

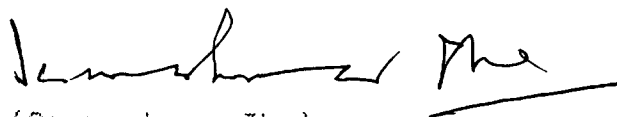
5. During the course of arguments a question was raised whether the subject of this OA had been referred to any Anomalies Committee. None of the two sides was very clear on this aspect of the matter. While the respondents were quite keen on explaining the reasons why parity with Primary Teacher should not be allowed to the Lab. Assts., there was hardly any explanation as to the fact that the matter had received consideration in any Anomalies Committee. There is no doubt that the Ministry of Defence has applied its mind to the subject and it is expected that all the submissions made by the applicant in the matter have been taken into account by them while giving their decision in the matter on which the impugned order of the respondents is based. It has also been pointed out during the course of arguments that the Lab. Assts. also participate in same form of teaching in so far as imparting knowledge on practical aspects of the subject to the students is



concerned, and whether this aspect has been taken into account by the Ministry/respondents while deciding the matter..

6.. Having regard to the facts and circumstances of the case, we are of the opinion that it would be in the fitness of things if this matter is referred to a Committee to be constituted by the Ministry of Defence who may associate a representative of the Department of Personnel & Training in the said Committee. We further direct that the said Committee shall be constituted within a period of three months from the date of receipt of a copy of this order and the matter considered and decided within another three months' time. The applicant is, however, given liberty to submit any further facts/material relevant to the subject to the respondents/Committee, when constituted. It will be appreciated if the respondents also give the applicants an opportunity of being heard by the Committee in due course before the matter is finalised.

7.. The OA thus stands disposed of in terms of the above directions. No order as to costs..


(Sarweshwar Jha)
Member (A)


(Shanker Raju)
Member (A)

/vikas/