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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1730/2001
O.A. No.1767/2001
O.A. No.1773/2001

New Delhi this the 1st day of July, 2002.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI S.A.T.RIZVI, MEMBER (A)

OA 1730/2001

- (1). Shri Girdhari Lal
S/O Shri Khem Chand
R/o Village-Mandkol
Tehsill Palwal
Distt. Faridabad (Haryana)
- (2) Shri Mahavir Singh
S/o Shri Charan Singh Rawal
R/o Sector 5/515, R.K.Puram,
New Delhi-110022.
- (3) Shri Dinesh Kumar
S/o Shri Shimbu Dayal
H.No.25/6, Village Nangloi
Delhi-110041. Applicants

-versus-

1. Govt.of NCT of Delhi
Through:
The Chief Secretary
National Capital Territory of Delhi
Sachivalya Building, I.G.Stadium
Near I.T.O., New Delhi-2.
2. The Secretary (Health)
Health and Family Welfare Deptt.
Govt.of NCT of Delhi
Delhi Sectt., I.P.Estate
New Delhi.
3. The Secretary of the Govt.of India
Ministry of Health and Family Welfare
Nirman Bhawan
New Delhi-110011.
4. Drugs Controller,
Govt.of NCT
15, Sham Nath Marg
Delhi.
5. The Secretary to Govt.of India
Ministry of Finance
Department of Expenditure
North Block
New Delhi-110001.

6. Director General Health Services
 Govt. of India
 Nirman Bhawan
 New Delhi-110001 . . . Respondents

OA 1767/2001

Shri Raj Kumar
 S/O Late Shri Tula Ram
 R/o 3349 Tibia College, Pump House
 Karol Bagh
 New Delhi-110005. Applicant

-versus-

1. Govt. of NCT of Delhi
 Through :
 The Chief Secretary
 National Capital Territory of Delhi
 Sachivalya Building, I.G.Stadium
 Near I.T.O., New Delhi-2.
2. The Drug Controller
 Govt. of NCT of Delhi
 15, Sham Nath Marg
 Delhi-110054.
3. The Secretary to Govt. of India
 Ministry of Health and Family Welfare
 Nirman Bhawan
 New Delhi.
4. The Secretary (Medical)
 Govt. of NCT Delhi
 Sachivalya Building, I.G.Stadium
 Near I.T.O.
 New Delhi-2.
5. The Director General of Health Services
 Ministry of Health & Family Welfare
 Government of India
 Nirman Bhawan
 New Delhi.
6. The Director
 Prevention of Food Adulteration (PFA)
 20A, Lawrence Road
 Delhi.
7. The Secretary
 Ministry of Fin. (Dept. of Expenditure)
 Govt. of India
 North Block, Central Secretariat
 New Delhi. . . . Respondents

OA 1773/2001

- (1). Shri Braham Parkash
 S/O Shri Ram Phal
 R/o H.No.152 V& P.O.Dhansa
 Delhi-42.
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- (2). Shri Pardeep Kumar
 S/o Shri Ram Lal
 R/o H.No.4, Khanna Market
 Tis Hazari, Delhi-54.
- (3). Shri Jagdish Chand
 S/o Shri Mukhtiar Singh
 R/o V & P.O. Kair
 New Delhi-43.
- (4). Shri Deonath Sah
 S/o Shri Ram Avtar Sah
 R/o RZ/23/1 Gali No.13
 Indra Park
 Palam Colony
 New Delhi-45. Applicants

-versus-

1. Govt.of NCT of Delhi
 Through :
 The Chief Secretary
 National Capital Territory of Delhi
 5, Sham Nath Marg
 Delhi-54.
2. The Drug Controller
 Govt.of NCT of Delhi
 15, Sham Nath Marg
 Delhi-110054.
3. The Secretary to Govt.of India
 Ministry of Health and Family Welfare
 Nirman Bhawan
 New Delhi.
4. The Secretary (Medical)
 Govt.of NCT Delhi
 5, Shamnath Marg
 Delhi-54.
5. The Director General of Health Services
 Ministry of Health & Family Welfare
 Government of India
 Nirman Bhavan
 New Delhi.
6. The Director
 Prevention of Food Adulteration (PFA)
 7th Floor, ISHF Building
 Kashmiri Gate
 Delhi.
7. The Secretary
 Ministry of Fin. (Dept.of Expenditure)
 Govt.of India
 North Block, Central Secretariat
 New Delhi. ... Respondents
- [Signature]*

Present:- Shri G.S.Lobana and Shri Surinder Singh, Advocates for the applicants in all the cases.

Shri Ajesh Luthra, counsel for the respondents in all the cases.

O R D E R (ORAL)

S.A.T.Rizvi:-

These three OAs raise similar issues of law and fact and are, therefore, being taken up for passing this common order.

2. Briefly stated, the facts contained in OA No.1730/2001 are that all the three applicants therein had been working as Sample Carriers in the office of the Drug Controller, Government of NCT of Delhi, when they sought parity of pay scale with the Field Assistants/Sample Packers working in the Department of Prevention of Food Adulteration of the Government of NCT of Delhi. The parity sought by them was granted with effect from 10.4.2001 by placing them in the higher pre-revised pay scale of Rs.975-1540. The claim made by them is for the grant of the aforesaid higher pay scale with effect from 1.1.1989 which is the date on which the aforesaid higher pay scale was granted to the Field Assistants/Sample Packers working in the Department of Prevention of Food Adulteration in the Government of NCT of Delhi. In the other two OAs, namely OA No.1767/2001 and OA No.1773/2001 respectively filed by one applicant and four

applicants, all working under the Drug Controller of the Government of NCT of Delhi, the aforesaid relief of higher pay scale of Rs.975-1540 is yet to be granted. As in the OA No.1730/2001, the applicants in the other two OAs have also prayed for the grant of the aforesaid higher pay scale with effect from 1.1.1989.

3. It appears that the Field Assistants/Sample Packers working in the Department of Prevention of Food Adulteration in the Government of NCT of Delhi sought pay parity with the Field Assistants/Sample Packers working in the office of the Director General of Health Services, Ministry of Health and Family Welfare, Government of India. On being denied the same, the aforesaid Field Assistants/Sample Packers working in the Government of NCT of Delhi approached the Supreme Court. By their order of 31.1.1989 (Annexure A-11) passed in Civil Appeal No.530 of 1989, the Supreme Court granted pay parity and subsequently, on the matter being raised, the Supreme Court clarified the matter to say that the the petitioners would be entitled to equal pay with effect from 1.1.1989. This clarification was given by the Supreme Court (pages 29 and 30 of the paper-book) despite the fact that the Field Assistants/Sample Packers working in the office of the Director General of Health Services, Government of India had been

drawing the aforesaid higher pay scale ^{from} before 1.1.1989.

2 Arising
4. ~~Arising~~ from the aforesaid decision of the Supreme Court, the applicants in OA No.1730/2001 approached this Tribunal through OA No.412/1996 seeking pay parity with the Field Assistants/Sample Packers working in the Government of NCT of Delhi in the Department of Prevention of Food Adulteration. That OA was decided on 11.2.2000 (Annexure A-12) giving time to the respondents to take a final decision in the matter. Thereupon after a proper consideration of the issues involved and after consulting the Ministries of Finance (Department of Expenditure) and Health and Family Welfare, Government of India, the respondents revised the pay scale of the applicants in OA No.1730/2001 to pre-revised higher scale of Rs.975-1540 with effect from 10.4.2001.

5. The learned counsel appearing on behalf of the applicants in these OAs argues that on par with the clarification given by the Supreme Court adverted to by us above, the applicants herein should also be granted ^{the} revised higher pay scale with effect from 1.1.1989. The learned counsel appearing on behalf of the respondents submits that the applicants herein were not parties in the petitions filed before the Supreme Court and, therefore, they

cannot claim any revision of their pay scales with effect from 1.1.1989. The Supreme Court, according to him, proceeded to indicate the date of 1.1.1989 clearly on the basis that they had decided the matter only on 31.1.1989, and not on the basis of the date from which the Field Assistants/Sample Packers working in the Directorate General of Health Services, Government of India were getting the aforesaid higher pay scale. The matter was, according to him, properly considered in consultation with the Government of India and it has been decided to grant the revised higher pay scale to the applicants in OA No.1730/2001 with effect from 10.4.2001. This decision cannot be questioned on the ground that in a petition to which the applicants herein were not parties and which concerns department other than the Department of Drug Controller under which the applicants are working, the Supreme Court had indicated 1.1.1989 as the date from which pay parity must be granted.

6. Grant of higher pay scales and the date or dates from which such scales are to be granted are matters on which the Government should be left alone to decide. Such matters can be looked into by Tribunals by way of judicial review only on the ground of arbitrariness and/or mala fide. No such grounds surface in the present case. We do not, therefore, find it in order to interfere with the

decision to grant pay parity to the applicants in OA No.1730/2001 with effect from 10.4.2001. At the same time, since the applicant in the other two OAs are entirely similarly placed, they will also be entitled to the grant of the aforesaid higher pay scale with effect from the same date, namely 10.4.2001.

7. Present OAs are allowed to the extent indicated in the above paragraphs. No costs.



(S.A.T.Rizvi)
Member (A)



(Ashok Agarwal)
Chairman

/sns/