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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.172/2001

New Delhi, this the 20th day of September, 2002

Hon'ble Shri Kuldip Singh, Member (J)
Hon'ble Shri S.A.T. Rizvi, Member (A)

1. Shri M.P.Sharma
s/o Shri R.P.Sharma
r/o 660, Sector-II, R.K.Puram Colony
New Delhi
2. Prem Singh, s/o Shri Sher Singh
r/o M-56-B, Observatory Compound
Lodi Road, New Delhi
3. P.S.Rawat, s/o Late Shri B.S.Rawat
r/o 786, Aliganj Lodi Road
New Delhi
4. Damodar Prasad
s/o Late Shri Tara Dutt Dhyani
r/o M-47-B, Observatory Compound
Lodi Road, New Delhi
5. Kishan Chand, s/o Shri Mahipal
r/o 48-B, Observatory Compound
Lodi Road, New Delhi
6. L.D.Dhyani, s/o Shri Hari Dutt
r/o 20-D, Sector-IV, DIZ Area
New Delhi
7. Amar Singh
s/o Late Shri Ruda Ram
r/o 9/103, Mangolpuri
New Delhi-83
8. Bhagat Singh
s/o Shri Jai Singh
r/o 1767, Pushp Vihar
New Delhi
9. Hari Singh s/o Shri Roop Chand Singh
r/o 1183/3, Pushp Vihar
New Delhi
10. Jitender Mohan
s/o Late Shri Ram Chandra
R/o Vill. P.O. Tigaon,
Faridabad, Haryana
11. Ramesh Chandra s/o Shri Nibula
r/o M-62-A, Observatory Compound
New Delhi
12. Sant Ram s/o Late Shri Man Singh
R/O M-55-A, Observatory Compound
New Delhi

(By Advocate: Shri V.S.R.Krishna) ...Applicants

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Versus

Union of India through

1. The Secretary
Deptt. of Science and Technology
Technology Bhawan
New Mehrauli Road, New Delhi-67
2. The Secretary
Ministry of Finance, Deptt. of Expenditure
North Block, New Delhi
3. The Director General of Meteorology
India Meteorological Department
Mausam Bhawan, Lodi Road, New Delhi
(By Adv. Shri M.M.Sudan)

...Respondents

ORDERShri S.A.T. Rizvi:

Twelve applicants, all Meteorological Attendants (MAs) in the pre-revised pay grades of Rs.775-1150/- and Rs.800-1150/-, are aggrieved by the respondents' inaction in not placing them in the pre-revised higher pay grade of Rs.825-1200/- since revised by the 5th CPC to Rs.2750-4400/-. They are, in particular, aggrieved by the respondents' letter dated 14.7.2000 (A-1) by which their claim has been rejected in the following terms:-

"The proposal for giving upgraded pre-revised technical pay scale of Rs.825-1200 (revised Rs.2750-4400) to Met. Attdts. with proper recommendations and justifications of this department, was recommended by DST to Ministry of Finance for their consideration and approval, but the same has not been agreed to by the Ministry of Finance."

The aforesaid is an extract taken from the letter of Director General of Meteorology to the General Secretary, IMD Group 'D' Staff Association, Lodi Road, New Delhi. The respondents have contested the OA and

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have filed a reply, to which a rejoinder has been filed on behalf of the applicants.

2. The facts of the case briefly stated are the following.

3. As a result of the cadre review of group 'D' cadre and on the basis of mutual agreement arrived at between the staff side and the Government in the National Council (JCM), two different posts in group 'D' cadre in India Meteorological Department (IMD), namely, Laboratory Attendant (LA) and Observatory Attendant in the respective pay scales of Rs.800-1150/- and Rs.775-1025/- were merged in a single elongated scale of Rs.775-1150/-. Consequently, the aforesaid two posts were re-designated as MA w.e.f. 1.4.1995. The details of cadre review are available in the OM dated 7.4.1995 (R-1). It would appear that those group 'D' employees, who were holding the post of LA in the pay scale of Rs.800-1150/- prior to the merger of posts as above, were allowed to continue in that same pay scale on personal basis. The MAs were, in the light of the 5th CPC's recommendations, placed in the revised pay scale of Rs.2650-4000/-. Since the LAs and the Record Sorters, who were running in the pay grade of Rs.800-1150/- prior to the merger of the posts as above, have been allowed to continue in that same pay scale (pre-revised), it will be incorrect to say that they have been placed in the lower pay scale of Rs.775-1150/-. At the same time, the others, who have been running in the pay scales of

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Rs.775-1025/- prior to the merger of the posts as above, have benefited from the grant of the elongated pay scale of Rs.775-1150/-.

4. The learned counsel appearing on behalf of the respondents submitted that though the case of the applicants for being placed in the higher pay grade (pre-revised) of Rs.825-1200/- had been recommended by the Department of Science & Technology (DST) to the Ministry of Finance, the proposal did not find favour with the Government on the ground that "no relativities have been disturbed or any other anomalies created on account of the pay scale of this post subsequent to the recommendations of the Fifth CPC".

5. It has also been argued on behalf of the respondents that the post of MA is a group 'D' post, whereas the pay scale of Rs.825-1200/- sought by the applicants herein is a group 'C' pay scale, and for this reason also, the applicants' demand for being placed in the aforesaid pay scale cannot be acceded to. Yet another ground advanced on behalf of the respondents is that the post of MA is the lowest category of feeder post in the technical stream and, therefore, it would not be advisable to change its category to group 'C'.

6. The learned counsel appearing on behalf of the applicants has stressed that the pay scales applicable to all the other posts in the technical stream of the IMD cadre have been upgraded and the applicants alone

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have been left out without any justification though they are also a part of the technical stream. Just above the level of MA, there is the post of Sr. Observer which carried the pre-revised pay scale of Rs.1320-2040/-. Instead of being placed in the replacement of scale of Rs.4000-6000/-, the Sr. Observers were granted the upgraded pay scale of Rs.5000-8000/-. The same treatment has been given to Scientific Assistants, Professional Assistants and the Assistant Meteorologists in the hierarchy of technical posts. As a result of aforesaid upgradation, the Scientific Assistants, who were earlier in group 'C', have been placed in group 'B' (non-gazetted). Likewise, the Professional Assistants, who were earlier in group 'B' (non-gazetted), have been placed in group 'B' (gazetted). The pay grade of Rs.825-1200/- (pre-revised) would still be lower than the pre-revised pay grade (Rs.1320-2040) of Sr. Observer. There should be no difficulty, therefore, in granting the pay scale of Rs.825-1200/- to the applicants. This will not cause any disturbance in vertical relativity in the IMD cadre.

7. The ground taken by the respondents that the pay scale of Rs.825-1200/- cannot be granted to the applicants merely because by doing so, they would be placed in group 'C' pay scale has been assailed by the learned counsel appearing on behalf of the applicants by pointing out that similar considerations were not allowed to prevail when Scientific Assistants, who were earlier in group 'C', were placed in group 'B' and

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likewise, when the Professional Assistants, who were earlier in group 'B' (non-gazetted), were later placed in group 'B' (gazetted). In the circumstances, denying the pay grade of Rs. 825-1200/- to the applicants on the aforesaid ground will amount to an act of discrimination against the applicants. On consideration, we find force in the aforesaid plea taken on behalf of the applicants.

8. We are also not convinced that the ground taken by the respondents as in para 4 above is logical and just. It is understandable that horizontal and vertical relativities are given due consideration at the time of fixation of pay scales of different cadres/posts. It is also understandable that as far as possible effort is made to ensure that anomalies do not ensue from fixation of pay scales of various cadres/posts. But this cannot mean that a just and fair treatment should be denied to holders of certain posts merely on the ground that by doing so the relativities were likely to be disturbed or anomalies might ensue. Pay Commissions/Committees and the Government are, in such situations, required to work out the pay scales, etc. of various posts so as to get over the problem of relativities and anomalies. In dealing with the case of the applicants/MAs, the respondents do not seem to have made a proper effort to consider their case in a fair and equitable manner.

9. We are also unable to persuade ourselves to find justification in the plea advanced on behalf of the respondents in paragraph 5 above that since the post of

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MA is the lowest category of feeder posts in the technical stream, it would not be advisable to change its category to group 'C'. Here again, the approach should be to give a just and equitable treatment to employees without invoking hyper-technical reasons such as the one advanced on behalf of the respondents by saying that it will not be advisable to change the category of MA to group 'C'. We have noticed that the post in the technical stream just above the post of MA, called Sr. Observer carried the pay scale of Rs.1320-2040/- (pre-revised). The applicants would presumably be eligible for promotion to the post of Sr. Observer, and are thus likely to be placed in the pay scale of Rs.1320-2040/- from their present pay scale of Rs.800-1150/-. The pay grade of Rs.825-1200/-, however, remains available in between the aforesaid pay scales. In our judgment, it will be in order to consider whether, in this view of the matter, the applicants could be placed in the intermediate pay grade of Rs.825-1200/-.

10. The learned counsel appearing on behalf of the respondents also advanced the plea that in view of several judgments rendered by the Apex Court, the Tribunal should desist from ordering fixation of pay scales of different posts/cadres as the matter of fixation of pay scales is something which, on account of diverse considerations involved, ought to be examined by expert bodies. According to him, the recommendations made by the expert bodies/Commissions are thereafter to be examined by the Government for a final decision in

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the matter. The Tribunal should not, according to him, make an effort to substitute its judgment for the decision to be arrived at by the Government in the light of the recommendations of the expert bodies/Commissions. The learned counsel appearing on behalf of the applicants has, on the other hand, advanced that where the claim of a section of employees has not at all been considered by the Pay Commission, it is open to the Tribunal to make an order directing the respondents to consider the just claims of such employees. The present case, according to the learned counsel, belongs to this category. The applicants' demand for placement in the pay grade of Rs.825-1200/- has not been considered by the 5th CPC and, therefore, in view of the reasons already spelt out earlier in this order, this Tribunal may issue directions to the respondents to consider the matter expeditiously.

11. The learned counsel appearing on behalf of the respondents was directed to place before us material to show that the applicants' claim was actually considered by the 5th CPC. Shri M.M. Sudan, learned senior government counsel has accordingly submitted certain papers for our perusal on 17.9.2002. We have perused the said papers and from the recommendations of the 5th CPC in respect of the IMD, we find that the claim of the applicants for being placed in the pay grade of Rs.825-1200/- has escaped the specific attention of the Commission. The Commission has considered the case of Sr. Observers and, at the same time, of the LAs/Sr.

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Observers, who (the latter) were then in the pay grade of Rs.975-1540/-. Out of the 212 posts of LAs/Sr. Observers, 70 each were placed by the 5th CPC in the pay grades of Rs.1320-2040/- and Rs.1400-2300/- by re-designating the incumbents as LA/Sr. Observer grade II and LA/Sr. Observer Grade I. The remaining posts of LA/Sr. Observer were allowed to remain in the pay scale of Rs.975-1540/-. The Sr. Observers were to be placed in the higher pay grade of Rs.1600-2660/-. In the proposed cadre structure of groups 'B' & 'C' scientific posts in the IMD forming part of the 5th CPC's recommendations, the post of MA has not figured anywhere though the respondents themselves have admitted that this post is the lowest category post in the technical stream of the cadre. Having perused the material supplied to us by Shri M.M. Sudan, learned senior government counsel, we are thus convinced that the applicants' claim has not been considered by the 5th CPC. In this view of the matter, we are not prepared to accept the argument advanced on behalf of the respondents that where no specific recommendation has been made by the Pay Commission, it should be presumed that the incumbents of the posts thus left out would be entitled to replacement scales and nothing else.

12. For all the reasons mentioned in the preceding paragraphs, we find merit in the OA and allow the same with a direction to the respondents to consider the applicants' claim for the higher pay grade of Rs.825-1200/- by having regard to the observations contained in

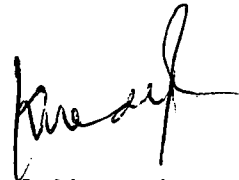
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this order and such other material as might be made available to them by the applicants within a period of one month from the date of receipt of a copy of this order. The respondents as well as the applicants are directed accordingly. We further direct that a final decision be made by the respondents in the matter within a period of four months from the date of receipt of representation, if any, made on behalf of the applicants as above. The decision taken will be communicated to the applicants.

13. The OA is disposed of in the aforestated terms. No costs.



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



(Kuldip Singh)
Member (J)

/Sunil/