

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

(A)

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  
Tehsil 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 Shimbhu 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.

10

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.

2

(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

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

2

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drawing the aforesaid higher pay scale <sup>from</sup> 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 <sup>the</sup> 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

4

-8-

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)

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(ASIAN INSTITUTE OF  
Chairman

Attested  
Aslam  
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