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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 2687/2001

This the 2nd day of May, 2002.

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Dr. Atul Kumar Gupta S/O Y.V.Gupta,
Senior Scientific Assistant,
Homoeopathic Pharmacopoeia Laboratory
Under M/O Health & Family Welfare,
R/O 37, Nai Basti,
Ghaziabad (UP).

... Applicant

(By Shri M.L.Sharma, Advocate)

-versus-

Union of India through
Secretary (ISM & H),
Department of ISM & Homoeopathy,
Ministry of Health & Family Welfare,
Red Cross Building, 1 Red Cross Road,
New Delhi.

... Respondent

(By Shri N.S.Mehta, Advocate)

O R D E R (ORAL)

Hon'ble Shri V.K.Majotra, Member (A) :

Applicant is working as Senior Scientific Assistant (SSA) in the Homoeopathic Pharmacopoeia Laboratory (HPL) under the Ministry of Health and Family Welfare at Ghaziabad in the pay scale of Rs.1640-2900 (pre-revised) on regular basis w.e.f. 4.1.1993. He possesses the qualification of MSc (Chemistry) and PhD in Chemistry. According to applicant although the Fifth Central Pay Commission (CPC) recommended the scale of Rs.6500-10500 w.e.f. 1.1.1996 in respect of SSAs possessing MSc degree in the sister laboratories, i.e., Central Drug Laboratories (CDLs) and Central Indian Pharmacopoeia Laboratory (CIPL), Ghaziabad, applicant has been placed in a lower pay scale of Rs.5500-9000 w.e.f. 1.1.1996 and

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as such has been discriminated against. Applicant's representations dated 16.3.2001, 19.4.2001 and 20.8.2001 (Annexures A-10, A-11 & A-12) have remained unconsidered by respondents. Applicant has sought upgradation of his pay scale to Rs.6500-10500 w.e.f. 1.1.1996 and payment of difference of arrears of pay etc. with interest from 1.1.1996 to the date of actual payment.

2. Learned counsel of applicant stated that the qualifications prescribed for the post of SSA in the "Department of Health Homoeopathic Pharmacopoeia Laboratory, Ghaziabad, Senior Scientific Assistant (Chemistry) Recruitment Rules, 1992" (Annexure A-5) and those for the post of SSA (Chemistry) in the "Central Indian Pharmacopoeia Laboratory, Ghaziabad (Group 'A' and 'B' Posts) Recruitment Rules, 1985", are the same, i.e., Master's Degree in Chemistry. Learned counsel stated that when the recommendations of the Fifth CPC have been accepted and applied by Government for grant of the scale of Rs.6500-10500 to SSAs in CIPL, Ghaziabad on the basis of MSc degree, and CIPL being sister laboratory, the same scale of pay could not have been denied to applicant. The learned counsel also stated that even Director, HPL had recommended the case of applicant for grant of the scale of Rs.6500-10500 and re-fixation of his pay w.e.f. 1.1.1996.

3. On the other hand, learned counsel of respondents stated that the recommendations of the Fifth CPC pertained to SSAs of Central Drug Laboratory (CDL), Calcutta and CIPL, Ghaziabad, but they did not relate to

the Department of Indian Systems of Medicine & Homoeopathy to which applicant is a subordinate staff member. Respondents have denied any recommendations made by the Fifth CPC in respect of SSAs (Chemistry) of HPL, Ghaziabad where applicant is working. According to the learned counsel, HPL functions on a much smaller scale than CDL and CIPL. Furthermore, types of products tested by HPL range from generics to ophthalmics, formulations, creams, hair oils, dressing powders and toxins. Surgicals, injectables, antigens, antibiotics etc. are not being studied or tested by HPL, as they fall out of the purview of both Homoeopathic Pharmacopoeia of India and HPL. Learned counsel also stated that whereas the pay scale of Rs.6500-10500 was recommended for SSAs of CDLs etc., a scale of Rs.5500-9000 only was recommended by the Fifth CPC for SSAs of HPL. Differentiation has been made on the basis of functional requirements, duties and responsibilities of the post of SSAs in different setups.

4. Paragraph 69.55 of the recommendations of the Fifth CPC relates to SSAs of CDLs which reads as follows:

"69.55. There are 23 posts of Research Assistants (Pharmaceutical Chemistry) and Sr. Scientific Assistants in the scale of pay of Rs.1640-2900. The 8 Research Assistants are recruited by promotion from among Assistant (Masters with 3 years' service) failing which direct recruitment. The minimum qualifications for direct recruitment is MSc. (Pharma-Chemistry/Organic Chemistry/Pharmacy). Of the 15 posts of Sr. Scientific Assistants, 50% are filled on promotion from among Jr. Scientific Assistants with 5 years of service failing which by transfer on deputation. The remaining 50% are filled by direct recruitment with post graduation in Bacteriology/Bio-Chemistry etc. The pay scale of the posts of Research Asstt./

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Sr. Scientific Asstt. should be upgraded from Rs.1640-2900 to Rs.2000-3500, as they possess M.Sc. degree."

5. Annexure A-8 is copy of notification No. GSR 569(E) published in Gazette of India Part-II Section 3(i) dated 30.9.1997. It contains revised scales of pay, among others, for SSAs of CDLs, as Rs.6500-200-10500 vis-a-vis the present scale of Rs.1640-2900. There is no recommendation of the CPC relating to SSAs of HPL. We find that as per First Schedule to CCS (Revised Pay) Rules, 1997 (see Rules 3 & 4 Part-A), revised scales have been mentioned for posts carrying present scales in Groups 'A', 'B', 'C' and 'D' except the posts for which different revised scales are notified separately. As revised scale for applicant's post has not been notified separately by the CPC, he appears to have been accorded revised scale of Rs.5500-9000 vis-a-vis his present scale of Rs.1640-2900 pertaining to his post which has been categorised as "S-10".

6. The contention of learned counsel of respondents that the Fifth CPC has recommended the scale of Rs.5500-9000 for the post of applicant is not borne out from the CPC's report. Obviously applicant seems to have been covered under the First Schedule Part-A as for his post different revised scale has not been notified separately. The Fifth CPC obviously has not studied the duties, responsibilities and functional requirements of the post of SSA in HPL vis-a-vis those of SSAs in CDLs etc. Applicant's representations stated above have also remained Unconsidered and undecided.

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Normally, courts are not expected to interfere with recommendations of Expert Bodies such as a Central Pay Commission but in the facts and circumstances of the present case, the Fifth CPC does not seem to have considered the full facts and has not reached any conscious and reasoned decision. In our view, therefore, there is an anomaly in the pay scale of applicant who possesses the same qualifications as SSAs of CDLs and had the same pay scale prior to 1.1.1996 as that of SSAs of CDLs. Resolution of this anomaly warrants consideration.

7. In the light of above discussion, it would be in the interest of justice to dispose of this OA directing respondents to consider the case of applicant as an anomaly by constituting a committee having officers of the level of Joint Secretary and above from the Ministry of Finance, Ministry of Personnel and Ministry of Health and Family Welfare, which should consider applicant's representations stated above along with the present OA as a supplementary representation and taking a reasoned decision on the issue of granting pay scale of Rs.6500-10500 to applicant w.e.f. 1.1.1996 as accorded to SSAs of CDLs, within a period of three months from the date of communication of these orders. Ordered accordingly.

8. The OA is disposed of in the above terms. No costs.

S. Raju
(Shanker Raju)

Member (J)

V. K. Majotra
(V. K. Majotra)
Member (A)

/as/