

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.482/2001

New Delhi, this 24<sup>th</sup> day of October, 2002

Hon'ble Shri Justice V.S. Aggarwal, Chairman  
Hon'ble Shri M.P. Singh, Member(A)

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1. Council of Non-Medical Scientist  
through its President Shri H.L. Grover  
13/56, Punjabi Bagh, New Delhi
2. Mrs. Inderjeet Gandhoke  
Flat No.25, Pocket A/3  
Sector 8, Rohini, Delhi

.. Applicants

(Shri V.S.R. Krishna, Advocate)

versus

Union of India, through

1. Secretary  
Ministry of Health & Family Welfare  
Nirman Bhavan, New Delhi
2. Director General of Health Services  
Nirman Bhavan, New Delhi

.. Respondents

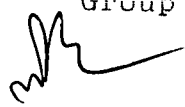
(Shri K.C.D. Gangwani, Advocate)

ORDER

Shri M.P. Singh, Member(A)

Applicants have earlier filed OA No.1088/93 seeking grant of various allowances to them and the said OA was disposed of by this Tribunal vide order dated 15.7.1999 directing them to make a self-contained representation to the respondents who would dispose of the same by a speaking, detailed and reasoned order. In pursuance thereof, applicants made a representation on 18.8.99 and the same has been disposed of by a speaking and detailed order dated 11.2.2000. Not satisfied with that order, applicants have filed the present OA inter alia seeking:

- (i) To direct the respondent to frame suitable rules/guidelines for extending the scheme of Flexible Complementary Scheme as in the case of Group B and C scientists in DRDO; and



- (ii) To grant to the applicants Academic & Research Pursuit Allowance/Higher Degree Allowance/Risk Allowance and also conveyance allowance in accordance with Q.Z.Hussain case keeping in view their duties, qualifications and job profile.

2. Briefly stated, applicants belong to Group B and Group C Non-medical scientific and technical personnel under the Ministry of Health and Family Welfare. Their grievance is that they are discriminated in so far as their service conditions are concerned and they have been denied various facilities/service prospects as are available to their Group A counterparts like promotional avenues, disparity in the pay scale, higher qualification allowance, academic and research pursuit allowance, risk allowance, conveyance allowance etc. In this connection they have filed OA 1088/93 which was disposed of by this Tribunal vide its order dated 15.7.1999 directing the respondents to consider the representation of the applicants in accordance with the order of Hon'ble Supreme Court dated 15.1.89 in WP(C) 1018/89 in the case of Q.Z.Hussain Vs. UOI. Thereafter, applicants filed a detailed representation justifying the reasons as to why they are entitled to the same relief as were granted in Q.Z. Hussain's case. However, by the impugned letter dated 11.2.2000 issued by the respondents, applicants' claim for grant of various allowances has not been acceded to. That is how the applicants are again before us seeking the aforesaid reliefs.

3. Respondents have contested the case and have stated in their reply that there is much difference in the service conditions of Group A officers and Group B and C staff as explained below:

*WB*

## Group A Officer

## Group B&amp;C Official

- |                                                                                 |                                                           |
|---------------------------------------------------------------------------------|-----------------------------------------------------------|
| a. These are appointed through UPSC                                             | These are appointed through Employment Exchange/Open Adv. |
| b. These are Gazetted Officers                                                  | These are non-gazetted officials                          |
| c. These officers form the organised cadre like CHS-non-Medical Scientists etc. | These officials do not form any organised cadre           |
| d. These are supervisory staff                                                  | These are supporting staff                                |

Promotional avenues of all the categories of Group A to Group D are governed by Recruitment Rules applicable to respective posts. Other benefits like risk allowance, conveyance allowance, academic allowance and research pursuit allowance are granted by the orders/instructions of the Government issued from time to time. It is stated by the respondents that with the introduction of Assured Career Progression (ACP) Scheme in all Ministries, two financial upgradations are given to Group B, C & D employees, which include non-medical, on completion of 12 years and 24 years of regular service respectively. In view of this, there is no justification for framing separate in-situ promotion scheme for Group B and C non-medical scientific and technical staff working under Dte. General of Health.

4. It is stated by them that while Group A Non-medical scientists work as Scientists in their own right in their supervisory and researcher capacities, Group B and C non-medical scientific and technical staff are only assisting Group A officers in carrying out their research pursuit. As such demand for grant of higher degree allowance or research pursuit allowance cannot be agreed to for the applicants. There are separate guidelines regarding grant of risk allowance to Central Government

employees under certain conditions and employees covered by those guidelines are only eligible for risk allowance. There is no justification for grant of risk allowance to applicants because they are not covered by the aforesaid guidelines. Likewise, patient care allowance is not admissible to applicants as per instructions issued by the Government on the subject. 28

5. Respondents would further contend that the orders of the Supreme Court in the case of Q.Z.Hussain are in respect of Group A Non-medical scientists only. Applicants are Group B & C employees consisting of the categories of Laboratory Assistant, Technicians, Research Assistants and Assistant Research Officers. Applicants possess either B.Sc. or M.Sc. and hence grant of any benefits on the basis of educational qualification alone will be a discrimination between the employees in the same cadre/category and thus will not be justified in public interest. In view of this position, the OA be dismissed.

6. We have heard the learned counsel for the parties and perused the records.

7. The main grounds taken by the learned counsel for the applicants during the course of the arguments are that the qualifications required for Group B and C in most of the cases of non-medical scientist is post-graduate degree in science which is also the minimum qualification for Group A post and therefore applicants are entitled to Higher Degree Allowance and that applicants also are

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prone to risk which involves taking blood and serum samples and working thereon in the same manner as Group A scientist and they are also entitled for risk allowance.


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8. On the other hand, learned counsel for the respondents has denied the aforesaid contentions. He has submitted that the research work is interwoven and the researcher definitely requires support from his staff. The supporting staff is recruited as per the required educational qualification and experience for which they are given remuneration. Only Group A officers of CHS and Non-medical scientists cadre are entitled for higher degree allowance and the same is not applicable to the applicants.

9. We have considered the aforesaid contentions and also carefully gone through the judgement of the Hon'ble Supreme Court in the case of Q.Z.Hussain (supra). We find that the Hon'ble Supreme Court have allowed grant of higher degree allowance, risk allowance etc. in respect of Group A Scientists as admissible to Doctors in the Medical Wing in the Health Directorate after considering the various aspects involved in their case. As rightly contested by the respondents as also as pointed by the Supreme Court (supra), Group A Scientists are involved in various research work, whereas the applicants only render assistance to them in such research work. Therefore, applicants cannot compare or equate themselves with those Group A Scientists and claim the same allowances as are applicable to them.



10. It is well settled legal position that the matter relating to grant of pay scales and various allowances to different categories of posts is always left to expert bodies like Pay Commission and the Tribunal has no role to play in it. We have also carefully gone through the impugned order dated 11.2.2000 and we find that the respondents have covered all the points raised by the applicants in their representation and have dealt with the same keeping in view the judgement of Hussain(supra). They have passed a reasoned, speaking and detailed order which does not suffer from any infirmity or illegality. Therefore, this order does not warrant our intervention. However, keeping in view the fact that that some categories of applicants-council are required to render assistance to Group A scientists in collecting blood/serum/stool samples of the patients having highly infectious diseases like TB, cholera, AIDS, plague, meningitis, hepatitis, rabies etc. which involve high risk to the health, respondents are directed to consider grant of risk allowance to these categories of applicants-council in consultation with their Nodal Ministry/Finance Ministry and pass a suitable order accordingly under intimation to the applicants. OA is disposed of in the above terms. No costs.

  
(M.F. Singh)  
Member(A)

  
(V.S. Aggarwal)  
Chairman

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