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Central Administrative Tribunal, Principal Bench

Original Application No.1149 of 1999

New Delhi, this the 5<sup>th</sup> day of January, 2000

Hon'ble Mr. Justice V. Rajagopala Reddy, Vice Chairman(J)  
Hon'ble Mr. R.K. Ahooja, Member (Admnv)

Dr. Dhum Singh, 233/1, Scheme No.7,  
Shastri Nagar, Meerut-250004.

- Applicant

(Applicant in person)

Versus

1. U.O.I. through Secretary to Govt.  
of India, Ministry of Defence, New  
Delhi.

2. Q.M.G. AHQ Sena Bhavan, A-Wing, New  
Delhi.

3. DDGMF AHQ West Block - III,  
R.K.Puram, New Delhi-110066

4. Commandant, MF School & Centre,  
Meerut Cantt- 250 001.

- Respondents

(By Advocate Shri N.S.Mehta)

O R D E R

By R.K.Ahooja, Member(Admnv) -

✓ The applicant who is presently working as  
Dairy and Agriculture Chemist in Military Farm Meerut  
has come before the Tribunal seeking revision of pay  
scale of the post he held prior to 18.5.1998 i.e.  
Assistant Research Officer (for short 'ARO') Military  
Farms. The post of ARO was in the scale of Rs.2000-  
3500 which was revised to Rs.6500-10500 with effect from  
1.1.1996 on the basis of the Fifth Pay Commission  
recommendations. His grievance is that the scientific  
posts with the designation of ARO and Junior Scientific  
Officer (for short 'JSO') have been, on the  
recommendations of the Fifth Pay Commission, granted the  
pay scale of Rs.7500-250-12000 while leaving out the  
post held by him.

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2. The applicant justifies the grant of the higher pay scale to the post of ARO on various grounds. Firstly, he contends that the nature of duties of the post of ARO in Military Farms is the same as that of AROs in the Central Ground Water Board (for short 'CGWB') and those of JSOs in the Defence Research Development Organisation (for short 'DRDO'). Secondly he states that the respondents had themselves proposed to the Fifth Pay Commission that the pay scale of the post of ARO be revised to Rs.8,000-13,500. This recommendation was, however, not accepted by the Fifth Pay Commission. The applicant argues that the respondents having justified the grant of a higher pay scale than that of Rs.7500-12000 should at least grant that pay scale to him. Thirdly, he submits that his recruitment to the post of ARO has been done through the UPSC while similar posts in the CGWB and the DRDO are largely filled through promotions from the lower rank. Lastly, he alleges that the respondents have arbitrarily rejected his representation since they are unhappy with him because of the various cases filed by him before this Tribunal and the Supreme Court which were not only allowed but the respondents were also saddled with heavy costs.

3. The respondents admit that they had proposed to the Fifth Pay Commission that the pay scale of the post of ARO in Military Farms should be revised to Rs.8000-13500 but as no recommendations to that effect were made by the Commission, the pay scale of Rs.6500-10500 only could be allowed to the applicant.

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They also point out that the nature of duties of the AROs in CGWB and the JSOs in DRDO are of entirely different nature than those of ARO in the Military Farms. Therefore, no comparison can be drawn between the two posts. It is also the case of the respondents that the pay scales of AROs and JSOs in various organisations are not uniform and the same vary from one department to another. The allegations of malafide have also been denied by the respondents.

4. We have heard the applicant as also the counsel for the respondents. In his detailed argument the applicant submitted that the respondents had never made a recommendation to the Fifth Pay Commission for granting the pay scale to the post of ARO in Military Farms on par with similar scientific posts. Reference made by the respondents was, he pointed out, in regard to the higher pay scale of Rs.8000-13500 on the basis that the post of ARO in Military Farms should be classified as a Group 'A' post. According to the applicant the Fifth Pay Commission had made a suggestion to all the scientific departments that they should categorise the scientific posts so that a higher pay scale could be granted to them; this was never replied to by the respondents; and hence the case of the applicant was lost by default. He also refuted the suggestion made by the respondents that the applicant was not a loser because with effect from 18.5.1998 he had been granted a still higher pay scale of Rs.10000-15200. The applicant pointed out that due to the non-conferment of the appropriate scale to him he was

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losing on an average a sum of Rs.1000/- every month due to loss of increments and fixation of his pay at a lower level than would otherwise be the case.

5. We have carefully considered the aforesaid arguments and submissions. The basis for the relief sought for the applicant is 'equal pay for equal work'. As held by the Supreme Court in the case of Federation of A.I.C. & CE Stenographers Vs. Union of India, AIR 1988 SC 1291 equal pay for equal work depend upon the nature of the work done, it cannot be judged by the mere volume of work, as there may be qualitative differences as regards reliability and responsibilities. The Supreme Court also pointed out that functions may be the same but the responsibilities make a difference; often the difference is a matter of degree and that there is an element of value judgment by those who are charged with administration in fixing the scales of pay and other conditions of service. In State of U.P. Vs. J.P. Chaurasia, AIR 1989 SC 19 the Supreme Court held that it is for the administration to decide the question whether two posts which very often may appear to be the same or similar should carry equal pay, since the answer to that depends upon several factors, namely, evaluation of duties and responsibilities of the respective posts and its determination should properly be left to expert bodies like the Pay Commission. Recently in Union of India and another Vs. P.V. Hariharan and others, (1997) 3 SCC 568 the Apex Court has again emphasised that the pay scale fixation is a function of the Government and not of the Courts and Administrative Tribunals.

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6. In the background of the law laid down by the Supreme Court it is not open to this Tribunal to determine the appropriate pay scale for the post of ARO in Military Farms. Admittedly, the question of pay scale revisions has been gone into in detail by the Fifth Pay Commission. The allegation of the applicant that the case of ARO has gone by default does not stand to reason when he himself states that the respondents had made a proposal to the Fifth Pay Commission to enhance the pay scale of the post of ARO to Rs.8000-13500. It has also been pointed out by the counsel for the respondents that the Pay Commission had sought the comments of the department in regard to the revision of the pay scale of this post and a copy of the letter written by the Ministry of Defence to the Fifth Pay Commission Secretariat dated 11.1.1996 has also been produced and has been taken on record. These comments were furnished to the Pay Commission on the basis of a memorandum submitted to the Pay Commission by the applicant himself. These comments state that the duties of ARO in Military Farms is not identical to teaching posts. It is the contention of the applicant that this memorandum was submitted by him to seek parity with teaching posts and not with the pay scale of other similar research posts in scientific departments. Be that as it may, the fact remains that the Fifth Pay Commission had examined two proposals one by the department for revision of the pay scale to Rs.8000-13500 and the other the memorandum submitted by the applicant for categorising his post as a teaching post. It was open to the Fifth Pay Commission if it

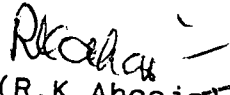
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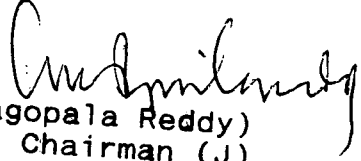
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considered it justifiable to make a recommendation that while the higher pay scale could not be allowed the post should be granted the same pay scale as that of ARO/JSO of CGWB/DRDO. The Fifth Pay Commission made no such recommendation. It is, therefore, not possible for this Tribunal to make a determination as to whether the responsibilities and functions of the post of ARO in Military Farms are on par with those in CGWB and DRDO.

7. In the result, we find no scope for interference. The relief sought for by the applicant cannot be granted. The OA is accordingly dismissed. There will, however, be no order as to costs.

  
(R.K. Ahooja)  
Member (Admnv)

  
(V. Rajagopala Reddy)  
Vice Chairman (J)

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