

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1772/99

New Delhi, this 2nd day of June, 2000

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)  
Hon'ble Smt. Shanta Shastri, Member(A)

M.R. Dogra  
Accountant  
Ministry of Non-conventional Energy Sources  
Block No.14, CGO Complex, Lodi Road  
New Delhi-110 003 .. Applicant

(By Shri M.K.Bhardwaj, Advocate)

versus

Union of India, through

1. Secretary  
Ministry of Non-conventional Energy Sources  
Block No.14, CGO Complex, New Delhi
2. Secretary  
Deptt. of Expenditure  
Ministry of Finance, New Delhi
3. Director(Admn.)  
Ministry of Non-conventional Energy Sources  
Block No.14, CGO Complex, New Delhi
4. Secretary  
Ministry of Agriculture  
Krishi Bhavan, New Delhi .. Respondents

(By Shri K.R.Sachdeva, Advocate)

ORDER

Smt. Shanta Shastri

The applicant is aggrieved that his post of Accountant in the Ministry of Non-conventional Energy Sources (MNES, for short) has not been upgraded from the grade of Rs.1400-2600 to Rs.1640-2900.

2. Applicant came to MNES on deputation as UDC w.e.f. 31.12.83 in the pay scale of Rs.1200-2040. In the year 1987, he was selected as Junior Accountant in the grade of Rs.1400-2600 from 9.6.87. Subsequently, he was promoted as Accountant in the grade of Rs.1400-2600 plus special pay of Rs.80 w.e.f. 1.9.92.



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3. When the Department of Non-conventional Energy Sources (now MNES) was being formed in 1982, some posts including the post of Accountant were transferred from the Department of Agriculture and the Department of Science & Technology to MNES. There were in all 29 posts of Accountant in MoA out of which 18 were transferred to Ministry of Fertilizer (MoF, for short), one to Ministry of Environment & Forests and one was transferred to MNES. The post was in the grade of Rs.425-800 plus special pay of Rs.40/- at the time of transfer. Later in the year 1983, the posts of Accountant which were transferred from MoA to MoF as well as elsewhere were upgraded Rs.500-900 (Revised to Rs.1640-2900) except for the post which was transferred to MNES, i.e. the post presently held by the applicant. The matter regarding upgradation of the scale of pay of Accountant in MNES was taken up with the MoA in 1988 and in 1994 which intimated that the post of Accountant under them was upgraded to Rs.1640-2900 and the special pay was withdrawn. When the applicant was promoted on 24.4.92, he made a representation claiming upgradation of his scale to Rs.1640-2900 on the analogy of upgradation in MoA and MoF. Also after implementation of the recommendations of the Fifth Central Pay Commission (FCPC, for short) applicant made representation on 8.12.97 to his department claiming revised pay scale of Rs.5500-9000 replacing earlier scale of Rs.1640-2900 instead of pay scale of Rs.5000-8000 given to him but his request was rejected.

4. It is the contention of the applicant that the posts of Accountant from the MoA which were transferred elsewhere in 1982 were upgraded to the exclusion of the post of Accountant in MNES which is discriminatory. Secondly, even in the existing department if the special pay were adjusted, the applicant could have got the corresponding revised pay scale of Rs.5500-9000. It is urged that in case of all grades to which the special pay was attached, the Pay Commission allowed the next higher grade by eliminating the element of special pay. Hence when the applicant was drawing pay scale of Rs.1400-2600 with special pay of Rs.80 he should have been allowed the scale of Rs.5500-9000. Besides the respondents had created another post of Accountant in IF Division in the upgraded scale which again is discriminatory. The applicant has therefore filed the present OA to quash and set aside the impugned order dated 9.3.99 and to upgrade the scale of pay of his post with all consequential benefits with effect from 1.1.92.

5. Learned counsel for the respondents submits that at the time the post of Accountant was transferred from MoA in September, 1982 the scale of pay of the post was Rs.425-800 with Rs.40 as special pay. MoA subsequently revised the scale to Rs.500-900 on 29.11.83. The applicant's request for upgradation of the scale was examined but it was not agreed to, keeping in view the pay scale prescribed by FCPC for similar posts. FCPC has recommended the pay scale of Rs.5000-8000 for Accountant in the organised accounts cadre which has been accepted by the Government. Accountants are therefore in the pay scale of Rs.5000-8000 i.e. old

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pre-revised scale of Rs.1400-2600 in other departments also and therefore upgradation of the pay scale of the applicant is not justified. It is further stated that the duties attached to the post of Accountant which was transferred from MoA way back in 1982 to MNES have not been changed so far. As such also upgradation is not warranted. As for MoA, they may have upgraded the pay scale of the Accountant in that Ministry, keeping in view the workload and the nature of duties etc. In fact the Duties and responsibilities of the Accountant in MNES and MoA are different, so also the method of recruitment and hierarchical structure are different in these two departments. There is no parity in the post of Accountant in MNES and MoA.

6. Further, the learned counsel points out that special provision has been made for adjusting the special pay under the CCS(Revised Pay) Rules, 1997 notified on 30.9.97. Rule 7(B) provides that in the case of employees who are in receipt of special pay/allowance in addition to pay in the existing scale which has been recommended for replacement by a scale of pay without any special pay/allowance, pay shall be fixed in the revised scale in accordance with the provisions of clause (A) except that in such cases existing emoluments shall include special pay/allowance in addition to basic pay, dearness allowance, first and second instalments of interim relief admissible on the basic pay and special pay under the relevant orders. Thus, the element of special pay has been duly taken care of and therefore applicant's pay would get fixed accordingly.

7. We have heard both the learned counsel for the applicant and the respondents and have perused the relevant pleadings. We find that no doubt the post of Accountant that is being held by the applicant was transferred by MoA to Respondent No.1 in 1982. However, at that time the applicant was only UDC on deputation to R-1. The very fact that R-1 created a new post of Accountant under the upgraded scale of Rs.1640-2900 in the IF Division make it clear that the respondents did not consider the existing post of Accountant as being equivalent to the upgraded post of Accountants in the MoA. Also the FCPC recommended replacement scale of Rs.5000-8000 for all posts of Accountant in various Departments. Even though MoA might have upgraded the post of Accountant, in view of the submissions made by the respondents that the duties and responsibilities as also the recruitment rules for the upgraded post of Accountant in MoA and that of Accountant in MNES being different there is no case for upgradation of the post of Accountant held by the applicant. Besides, provision has already been made in the revised pay rules for elimination of special pay drawn in the pre-revised scale.

8. Learned counsel for the respondents also cites the judgement of the Hon'ble Supreme Court in the case of State of West Bengal & Ors. Vs. H.N.Bhowal & Ors. (1994) 27 ATC 524, wherein it has been held that the principle of equal pay for equal work can be enforced only after the persons claiming satisfy the court that not only the nature of work is identical but in all other respects they belong to the same class and there

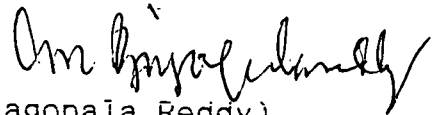
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is no apparent reason to treat equals as unequals. Similarly in another judgement in UOI & Anr. Vs. P.V.Hariharan in CA No.2127/93, the apex court has made it clear that it is the function of the Government to fix pay, acting upon the recommendations of expert body like Pay Commission. It is not for the Tribunal to interfere with the pay scales without proper reasons. FCPC has rightly given replacement scale of Rs.5000-8000 to the applicant's post on the basis of the pay scale prescribed for the posts of Accountant in various Ministries and Departments of the Government of India. We are not therefore inclined to interfere with the same.

9. In the facts and circumstances of the case, the application fails. ~~has no case~~<sup>is</sup>. The OA is therefore dismissed. No costs.



(Smt. Shanta Shastri)  
Member(A)



(V. Rajagopala Reddy)  
Vice-Chairman(J)

/gtv/