

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No. 1228/98
MA No. 1280/98

New Delhi, this the 15th day of March, 1999

HON'BLE SHRI T.N. BHAT, MEMBER (J)
HON'BLE SHRI S.P.BISWAS, MEMBER (A)

In the matter of:

1. Dr. A.R. Sharma,
s/o Late Shri L.R. Sharma,
23-T Sector IV, DIZ Area,
S.Bhagat Singh Marg, New Delhi.
2. Dr. M.M.M. Beg,
s/o Late Shri M.Z. Beg,
811, Kirti Apartments,
D Block, Vikaspuri,
New Delhi.
3. Dr. B.B. Das s/o Sh. Sukhdev Das,
150-R, Sector IV, Pushpvihar,
New Delhi.
4. Dr. R.P. Mishra,
s/o Shri J.P. Mishra,
161, Friends Enclave,
Nangloi,
New Delhi.
5. Dr. B.R. Acharya,
s/o late Shri (Dr.) Bijoy Ranjan Acharya,
146/9; Sector I, M.B. Road,
Pushpvihar, New Delhi. Applicants

(By Advocate: Shri Deepak Verma)

Versus

1. The Secretary,
Department of Animal Husbandary & Dairying,
Ministry of Agriculture,
Govt. of India,
Krishi Bhawan, New Delhi.
2. The Secretary,
Department of Expenditure,
Ministry of Finance,
Govt. of India, North Block,
New Delhi.
3. The Joint Secretary (Admn.),
Department of Animal Husbandary & Dairying,
Ministry of Agriculture,
Krishi Bhawan,
New Delhi. Respondents

(By Advocate: Shri S.M. Arif)

Arif
15-3-99



delivered by Hon'ble Shri T.N.Bhat, Member (J)

We have heard the learned counsel for the parties for final disposal of the OA at the admission stage itself.

2. According to the recommendations of the 4th Pay Commission the replacement scale for the pay scale of Rs.550-25-900 was Rs.1640-2900. However, in the case of Veterinary Officers there was a recommendation that for those persons holding the post of Veterinary Officers, which term also included the post of Senior Technical Assistants and the higher post of Assistant Live Stock Officers, the higher pay scale of Rs.2000-3500 would apply provided the Degree in Veterinary Science was the minimum required qualification.

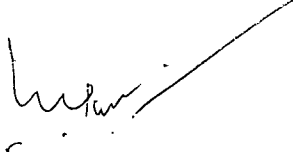
3. It appears that the applicants who were on 31.2.85 working as Sr. Technical Assistants in the Department of Animal Husbandry were placed in the pay scale of Rs.2000-3500 instead of the pay scale of Rs.1640-2900.

4. The respondents have now, by impugned order dated 16.6.98, as at Annexure A-1 to the OA, stated that the fixation of the applicants' pay in the scale of Rs.2000-3500 w.e.f. 1.1.86 was erroneous and have further directed that the applicants shall be paid their salary on their pre-revised pay till a final decision is taken by the Ministry of Finance regarding the question as to what would be the correct fixation of the pay of the applicants w.e.f. 1.1.86.

(B)

5. The crux of the matter seems to be as to whether under the relevant Recruitment Rules, for the post of Sr. Technical Assistant in the Animal Husbandary Department, the minimum essential qualification is degree in Veterinary Science or not so as to attract the application of the recommendation made by the 4th Pay Commission for grant of higher pay scale (Rs.2000-3500). The stand taken by the respondents appears to be that according to the relevant recruitment rules pertaining to the post of Sr. Technical Assistant the minimum qualification required is Degree in Animal Husbandary or Veterinary Science and that, therefore, the qualification of Degree in Veterinary Science not being the minimum or the only qualification the aforesaid recommendation of the 4th Pay Commission would not apply, as Degree in Animal Husbandary is also prescribed as an alternative qualification for the aforesaid post.

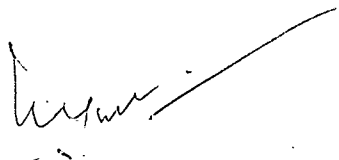
6. The learned counsel for the applicants draws our attention towards a letter from the Veterinary Council of India addressed to the Secretary, Ministry of Agriculture, as at Annexure R-2, wherein it has been stated in clear terms that the Degree in Animal Husbandary has never been awarded by any University in India, and therefore, there is no question of comparing its status with the Degree in Animal Husbandary to Veterinary Science. It is further stated that CBSE/BVSc and AH/BSc, (Vet) etc. are being awarded by the various Universities in India but no university awards the Degree in Animal Husbandary. In view of this clear reply given by the Veterinary Council of India, it becomes abundantly clear



that the mention of Degree in Animal Husbandary in the relevant Recruitment Rules is a superfluous provision and as a matter of fact the only qualification was Degree in Veterinary Science which would also include BVSc and AH, which qualificaion the applicants admittedly possess.

7. Even otherwise the respondents' contention seem to be entirely without substance. Even assuming that Degree in Animal Husbandry is equivalent to Degree in Veterinary Science. The mere fact that both these Degrees are mentioned in the Recruitment Rules would not make the recommendation of the 4th Pay Commission inapplicable. The stand taken by the respondents would be understandable if, apart from the Degree in Animal Husbandary or Veterinary Science, some other Degree or Diploma had been mentioned in the recruitment rules as one of the requisite qualifications.


8. We are convinced that for the post of Sr. Technical Assistant in the Department of Animal Husbandary at the relevant time i.e. 1.1.86 the Degree in Veterinary Science was the essential minimum qualification and that the applicants had rightly been placed in the pay scale of Rs.2000-3500. Therefore, the impugned order as also the action of the respondents in withholding from the applicants the benefit of revision of pay scale in pursuance to the recommendations of the 5th Pay Commission is not sustainable. We accordingly quash the impugned order and direct the respondents to pay to the applicants their pay in accordance with the 5th Pay Commission report




proceeding on the basis that pay of the applicants had rightly been fixed w.e.f. 1.1.86 in the pay scale of Rs.2000-3500, if that has not already been done.

9. we further direct that this judgment shall be implemented within 2 months from the date of receipt of a copy of this order. Needless to say that no recovery on account of the alleged wrong fixation of pay shall be effected from the applicant.

10. In the peculiar circumstances of the case we leave the parties to bear their own costs.


(S.F. BISWAS)
Member (A)


15.3.99.
(T.N. BHAT)
Member (J)

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