

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1628/2000

Monday this the 11th day of March 2002

Hon'ble Shri Justice Ashok Agarwal Chairman
Hon'ble Shri S.A.T. Rizvi Member (A)

1. Shri Vijay Singh
s/o Shri Raghbir Singh
r/o 66A, Humayunpur,
New Delhi
2. Shamim Anwar
s/o Zulfikar Hussain
r/o L-186, Sarojini Nagar
New Delhi
3. Ved Prakash
S/o Sh. Dhuppan
r/o 107, Humayunpur
New Delhi
4. Kripa Shankar Mishra
S/O Shri Ramphar Mishra
R/O C-178, Netaji Nagar
New Delhi
5. Ramakant Prasad Sah
s/o Sh. Ram Nandan Sah
R/O D-356, Okhla Phase-I
New Delhi
6. Partap Singh
s/o Parma Nand
r/o 74/5520, Regharpura
Karol Bagh,
New Delhi

..Applicants

(By Advocate: Shri R.N.Singh for Shri R.V. Sinha)

Versus

1. Union of India
through the Secretary
Ministry of Health & Family Welfare
Govt. of India,
New Delhi
2. The Indian Council of Medical Research
Through its Director General
Ansari Nagar,
New Delhi.

..Respondents

(By Advocates: Shri V.K.Rao & Ms. A. Priyadarshini)

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O R D E R (ORAL)

Hon'ble Shri S.A.T.Rizvi, M (A):

Heard the learned counsel on either side.

2. Implementation of the Technical Assessment Scheme as a result of which the applicants in the present OA were to be placed in the higher pay grade of Rs.1350-2200/- w.e.f. 1.8.1990, despite orders issued by the respondents on 11.6.1993, ~~has~~ has been delayed and that is why the present OA. The prayer made is for a direction to the respondents to place the applicants in the pay grade of Rs.1350-2200/- together with a direction to pay the arrears of difference of pay with effect from the same date, namely, 1.8.1990.

3. The contention of the respondents, insofar as the present applicants are concerned, is that the applicants are required to be placed in the higher pay grade not on the completion of seven years in all cases as sought to be made out on behalf of the applicants. According to the learned counsel appearing on behalf of the respondents, the applicants were to be placed in the aforesaid higher pay grade on completion of seven years, eight years or even nine years and after remaining for one year on maximum of the scale, as provided in the Integrated Recruitment and Assessment Scheme placed at R-1. He submits that ~~the~~ the aforesaid formula has been applied in respect of four applicants, namely, S/Shri Ved Prakash, Kripa Shankar Mishra, Ramakant Prasad Sah and Pratap Singh, and accordingly they have been

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placed in the aforesaid higher pay grade from 13.8.1994, 1.4.1996, 13.5.1997 and 1.4.1996 respectively about which there is no dispute. In regard to first two applicants, namely, S/Shri Vijay Singh and Shamim Anwar, the respondents have granted the benefit of the aforesaid pay grade to them from the date their respective juniors were placed in that grade. There juniors were placed in the pay grade of Rs.1350-2200/- w.e.f. 1.8.1991 and, therefore, the aforesaid two applicants have also been placed in that grade with effect from that very date. The learned proxy counsel appearing on behalf of the applicants contends that since the aforesaid two applicants had actually become entitled to be placed in the aforesaid higher pay grade from 1.8.1990, the respondents need not have relied on the date from which their juniors had been placed in the higher pay grade. Instead the respondents should have placed the two applicants in the higher pay grade of Rs.1350-2200/- w.e.f. 1.8.1990.

4. The learned counsel appearing on behalf of the respondents submits that when it comes to the aforesaid two applicants, the provisions made in the Scheme dated 11.6.1993 (A-C) will have to be applied and ~~the~~ ^{matter} needed some consideration in view of the provisions made in sub-paragraphs (b) & (c) of the aforesaid Scheme.

5. The learned counsel appearing for the respondents has placed before us a copy of an Office Order dated 14/18.2.2002 issued by the Indian Council of Medical Research (ICMR) placing the applicants in the aforesaid

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higher pay grade of Rs.1350-2200/- (revised as Rs.4500-7000/-) with a stipulation that they will derive actual monetary benefit w.e.f. 3.1.2002, which is the date on which the Director General of ICMR took the decision to up-grade the scales of pay in question. Accordingly, by the aforesaid Office Order, the applicants have been placed in the aforesaid higher pay grade on notional basis w.e.f. 1.8.1991 in the case of first two applicants and with effect from the dates already referred to in para 3 above in respect of the remaining four applicants.

6. We have considered the submissions made and find that insofar as the applicant Nos. 1 and 2 are concerned, it will be in order to give the respondents a chance to review the position having regard to the provisions made in the aforesaid order dated 11.6.1993 and take a decision on the date from which they ought to be placed in the higher pay grade. All that they have to decide is whether the aforesaid applicants ~~are~~ ^{were} to be placed in the higher pay grade from 1.8.1990 or else from 1.8.1991 from which date they have already been placed in that grade, even though on notional basis. The respondents are directed to pass necessary orders in that regard within four weeks from the date of receipt of a copy of this order. We have noted that in relation to the other four applicants, there is no dispute about the date from which they have been placed in the higher pay grade of Rs.1350-2200/- ^{7//} The learned proxy counsel appearing on behalf of the applicants presses that the applicants should be considered for being placed in the

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aforesaid higher pay grade with effect from the aforesaid relevant dates not on notional basis but effectively from those very dates so as to enable them to get monetary payments accordingly. We have carefully considered this contention raised on behalf of the applicants and find that since the applicants have, all these years and all along, served as Senior Driver without any change in the duties and the responsibilities, it will not be fair and proper to withhold the grant of effective promotion with effect from the aforesaid dates. We, therefore, direct the respondents to grant the pay grade of Rs.1350-2200/- to the applicants effectively from the dates shown in the aforesaid Office Order of 14/18.2.2002, insofar as the applicant Nos. 3 to 6 are concerned. The first two applicants will also be similarly entitled to effective promotion from either 1.8.1991 or from 1.8.1990 depending on the decision taken by the respondents in the manner directed in the previous paragraphs.

g. The aforesaid directions, insofar as the placing of the applicants in the higher pay grade is concerned, will be carried out by the respondents within a period of six weeks and the arrears of difference of pay and allowances will be paid within that period.

g. The issue of limitation raised on behalf of the respondents has also been considered by us. We find no force in the same in view of Memorandum dated 5.6.2000 (A-P-1 to the rejoinder). It appears from the aforesaid Memorandum that the applicants' claim has been kept pending by the respondents for examination and a decision

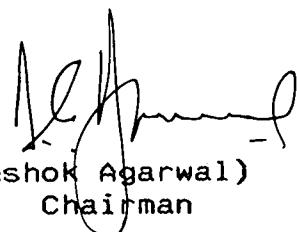
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on merits. Because the respondents have entertained the representations made on behalf of the applicants for giving a decision on merits, the limitation will, in our judgement, stand revived and the corresponding issue cannot be successfully raised.

10. The present OA is allowed in the aforesated terms. No costs.


(S.A.T. Rizvi)
Member (A)


(Ashok Agarwal)
Chairman

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