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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA NO. 52/2000

New Delhi, this the 11th day of September, 2000

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE MR. GOVINDAN S. TAMPI, MEMBER (A)

In the matter of:

Mahjabeen Akhtar
D/o Late Ranuq Ali Siddiqui
1478, Ajmal Khan Street
Ballimaran, Delhi - 110064 Applicant
(By Advocate: Sh. P.P. Khurana, Ms. Mamta Saha &
Ms. Rinchan O. Bhatia)

VS.

1. Union of India
Through the Secretary,
Ministry of Human Resource Development
(Department of Education)
Shastri Bhawan
New Delhi.
2. National Council for Promotion of Urdu Language
Ministry of Human Resource Development
(Department of Education)
West Block-I, R.K. Puram
New Delhi-110066. Respondents
(By Advocate : Sh. Madhav Panikar)

ORDER (ORAL)

By Mr. Govindan S. Tampi,

The applicant Smt. Mahjabeen Akhtar, who was working as a Research Assistant in the Bureau for Promotion of Urdu (BPU) since 1982, has come before us challenging the order dt.17.05.1999, rejecting her claim for the replacement scale of Rs. 6500-10500/- granted by the 5th Pay Commission. She was earlier drawing her pay in the scale of Rs.550-900/- replaced by the 4th Pay Commission ~~on~~ the scale of Rs. 1640-2900/-. She claims that she was working as Research Assistant in BPU, a subordinate office of the Deptt. of Education, like Central Hindi Directorate, Central Institute of Indian Languages etc. In 1996, BPU was abolished and rechristened as National Council for Promotion of Urdu

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Language (NCPUL), a society under the administrative Control of the Deptt. of Education in the Ministry of Human Resource Development. Their OA No. 2464/1994, apprehending difficulties on the likely conversion of BPU into an autonomous body was dismissed as premature on 14.12.1994, indicating that the dismissal would not bar any remedy being sought ^{by} ~~of~~ difficulties came their way on such an eventuality. On NCPUL coming into being w.e.f. 01.04.96, ^{the applicant} ~~she~~ opted to remain in the Ministry, following which she was declared surplus on 19.08.97 and on 28.10.97 her pay was fixed on Rs. 5500-9000/- w.e.f. 01.01.96. This was followed by two representations dt. 13.11.97, indicating that another similarly placed individual had been redeployed in the Central Hindi Directorate and given the replacement scale. A few more representations followed leading to the impugned communication dt. 17.05.99, stating that as she was an employee of the erstwhile BPU which has ceased to exist and that NCPUL was not competent to fix terms and conditions of any Govt. Servant.

2. The applicant concedes that the BPU had ceased to exist in March-April 1996 but the fact remains that it was very much alive and active on 01.01.96, when the 5th Pay Commission recommendations were implemented and indeed as subordinate office of the Education Department like Central Hindi Directorate (CHD), Central Institute of Indian Languages (CIIL). Only three months later the Bureau was converted to an autonomous council and there was no reason, therefore, the revised pay scales, as granted to those as the other Institutes could not have been granted to the applicant as well, urges Sh. P.P. Khurana, learned counsel for the applicant.

3. Contesting the plea raised by the applicant, Sh. Madhav Panikar the learned counsel for respondents states that since BPU has ceased to function there was no question of granting the staff attached to that the revised pay scale. He also referred to the order passed by a co-ordinate Bench of this Tribunal in OA No. 1287/99 filed by one Bashir Ahmed on, 05.05.2000, dismissing a similar application, following the apex Courts decision in P.K. Bhartiya's case (J.T. 1992 (5) SCC 483). He further pointed out that Human Resources Development Ministry had not made any specific recommendation with regard to BPU, to the 5th Pay Commission which also, goes against the applicant's case, according to him.

4. We have carefully considered the matter. We are convinced on the facts and circumstances brought out that the applicant as well as the Research Assistant in the sister Institutions like Central Hindi Directorate and Central Institute of Indian Languages and Council for scientific and Technical Terms, are similarly qualified and performing similar functions. All the Institutes including BPU were functioning on 01.01.96 when the recommendations of the 5th Pay Commission were implemented. BPU came to be abolished only on 31.03.96, and therefore there is no reason why the Research Assistant in BPU should have been treated in a different matter. The decisions of another Bench in OA No.1287/99, referred to by the counsel for the respondents, proceeded on the assumption that the applicants therein have not clearly brought out the similarity in duties with those in other Institutes. The same is distinguished as in this case, the applicant has proved similarity in duties, qualifications and responsibilities. Respondents' plea that the Ministry of Human Resources Development has not made any specific recommendation to the 5th Pay Commission in respect of the

Research Assistants working in Bureau for promotion of Urdu, also does not come to their rescue, as no specific recommendations had been made to the 4th Pay Commission as well, but the revised pay scale had in fact been given to them at that time, alongwith this other similarly placed Research Assistant. The recommendations of the 5th Pay Commission has to follow suit.

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5. In the above matter the applications succeeds and is accordingly allowed. The respondents are directed to consider the grant of the replacement scale of Rs. 6500-10500/- to the applicant, keeping in view the similarity in essential qualification, functions in responsibilities with those in CHD, CIIL, CSTT w.e.f 01.01.96, with consequential benefits. This should be done within four months from the receipt of this order. Parties to bear their own costs.

(GOVINDAN S. TAMPI)
MEMBER(A)

(ASHOK AGARWAL)
CHAIRMAN

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