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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.674/2000

New Delhi, this the 7th day of January 2002

**Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. M.P. Singh, Member (A)**

Shri R.L. Lohia
S/o Shri S.C. Lohia
R/o 222-C, Shahpur Jat,
New Delhi.

.... Applicant

(By Advocate : Mrs. Prashanti Prasad)

V E R S U S

1. Union of India, Through
The Director General
CSIR, Anusandhan Bhawan,
Rafi Marg, New Delhi-110001.
2. The Joint Secretary (Admn.)
CSIR, Anusandhan Bhawan,
Rafi Marg, New Delhi-110001.
3. The Director
C.R.R.I.
New Delhi - 110020.

.... Respondents

(By Advocate : Ms. K. Iyer)

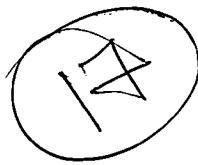
ORDER (ORAL)

Mr. M.P. Singh, Member (A) :

The applicant by filing this OA is seeking a direction to the respondents to grant him the pay scale of Rs.1640-2900 (pre-revised) or Rs.5500-9000 (revised) from the date of his appointment, i.e., 5.7.1991 to the post of Assistant Manager, as similarly situated Assistant Managers' are getting the same scale of pay, his request in this regard was rejected by the respondents vide orders dated 22.12.1999 and 2.7.1999.



2. Brief facts of the case are that the applicant was appointed as Assistant Manager on 5.7.1991 in pursuance of the advertisement in the Employment News No.3/90 in the month of July, 1990. The minimum qualification for the post of Assistant Manager as per the advertisement No.3/90 was three years Diploma in Hotel Management with two years experience in an identical post in reputed organisation/hotel. The applicant fulfills the aforesaid eligibility criteria. It is also stated by the applicant that after some time, he came to know that all other similarly situated Assistant Managers working with the respondents are getting the pay scale of Rs.1640-2900 and now Rs.5500-9000 whereas the applicant has been fixed in the pay scale of Rs.1400-2300 and now Rs.4500-7000. The applicant made a representation to the respondents on 9.3.1993. After waiting for a long time, he made a representation to the Local Grievance Cell on 5.6.1998 but no reply was given to him. He gave reminders on 2.11.1999 and 26.3.1999. Thereafter the respondents vide impugned orders dated 7.2.1999 and 22.12.1999 have rejected his aforesaid representation and reminders. The contention of the applicant is that the post of Assistant Manager is having same nature of duties, responsibilities and educational qualification and the applicant as well as the other two Assistant Managers, who were selected in the year 1989, are performing the same duties at Maharani Bagh Guest House. Having same qualification, the other Assistant Managers are getting the higher pay scale of Rs.1640-2900 (pre-revised) whereas the applicant has been given the pay scale of Rs.1400-2300 (pre-revised). It is further stated by him that although the qualification and the nature of duties are the same, but the respondents have discriminated the applicant by granting him lower scale of pay of Rs.4500-7000 (revised). Aggrieved by this, he has filed this OA claiming the aforesaid relief.



3. The respondents in their reply have stated that the applicant had been appointed in pursuance of the advertisement No.3/90 where the qualification and experience were fixed as "three years Diploma in Hotel Management with two years experience in an identical post in a reputed organisation/hotel", while on the other hand, Shri F.A.Siddiqui and Shri Yogesh Mehra were appointed pursuant to the advertisement No.12/88 where appointment criterion was fixed as "three years Diploma in Hotel Management with five years experience in an identical post in a reputed organisation". Moreover, the applicant was appointed in 1991 whereas the appointment of the other two Assistant Managers was made in the year 1989. The applicant is estopped from demanding the pay scale of Rs.1640-2900 (pre-revised) at this belated stage after accepting the pay scale of Rs.1400-2300 (pre-revised) way back in 1991. In view of the aforesaid submissions, the OA is without any merit and is liable to be dismissed.

4. We have heard Mrs. Prashanti Prasad, learned counsel for the applicant and Ms. K. Iyer, learned counsel for the respondents.

5. During the course of the argument, learned counsel for the applicant drew our attention to the chart prepared by her and annexed with the rejoinder. According to this chart, the nature of duties, responsibilities and educational qualification are same but the experience of years is different, i.e., in the Adv. No.12/88, it was five years and in the Adv. No.3/90, it was two years. She also pointed out that in both the advertisements, the respondents have indicated both the pay scales, i.e., Rs.1400-2300 (pre-revised) or Rs.1640-2900 (pre-revised). She also contended that this cannot be the ground for granting the lower pay scale to the applicant, because in both the advertisements, the respondents have indicated both the pay scales,

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but the respondents have granted the higher pay scale of Rs.1640-2900 (pre-revised) to Shri F.A.Siddiqui and Shri Yogesh Mehra and discriminated the applicant by granting him lower pay scale of Rs.1400-2300 (pre-revised).


6. On the other hand, learned counsel for the respondents took a preliminary objection that the applicant had filed his representation in the year 1993 whereas this OA has been filed by the applicant after seven years, i.e., in the year 2000. Therefore, the same is barred by limitation. She also contended that the applicant was appointed in the year 1991 and he has accepted the lower scale of Rs.1400-2300 (pre-revised). After having accepted the lower scale of pay of Rs.1400-2300 (pre-revised) in the year 1991, he cannot now agitate for the higher pay scale after a lapse of nine years. She also contended that it was the Selection Committee, which had granted the different pay scales.

7. Admitted facts of the case are that the nature of duties, responsibilities, educational qualification and promotional avenues for the post of Assistant Managers are the same but the pay scale granted by the respondents are different inasmuch as the applicant was granted the lower pay scale, i.e., Rs.1400-2300 (pre-revised) and the other two Assistant Managers were granted the higher pay scale, i.e., Rs.1640-2900 (pre-revised). We do not find any justified ground to grant two different grades. The plea taken by the learned counsel for the respondents that it was the Selection Committee, who ^{had} ~~was~~ granted the higher pay scale to other two Assistant Managers, cannot be accepted, as the function of the Selection Committee is to make selection and not to recommend the pay scale as per the performance of the candidates in the interview. We, therefore, hold that the lower pay scale of Rs.1400-2300 (pre-revised) granted to the applicant is not

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justified and in view of this position, the orders passed by the respondents rejecting the representation of the applicant is liable to be set aside. We do so accordingly. However, we make it clear that the applicant is entitled for the benefit of the higher pay scale, i.e., Rs.1640-2900 (pre-revised) from the date when he approached this Tribunal, i.e., 20.4.2000.

8. The present OA is disposed of in the aforestated terms. No costs.


(M.P. SINGH)
Member (A)


(ASHOK AGARWAL)
Chairman

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