

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
OA. No. 636 of 1989  
Dated this the 17th day of March 1994

Shri C.J. ROY, Hon. Member(J)  
Shri P.T. THIRUVENGADAM, Member(A)

Shri B.N. Ganguly,  
S/o Late Shri K.P. Ganguly,  
R/o Flat No. 2B, Block No. 22,  
Sector No. II (DIZ Area),  
Gole Market, New Delhi 110 001.  
(X-Ray Technician, C.G.H.S. Dispensary,  
Kasturba Nagar, New Delhi) ....Applicant  
By Advocate: None

versus

1. The Secretary to the Govt. of India,  
Ministry of Home Affairs,  
Dept. of Internal Security,  
Rehabilitation Division,  
Jaisalmer House,  
Mansingh Road,  
New Delhi 110 001.
2. The Secretary to the Govt. of India,  
Ministry of Finance, Deptt. of Expenditure,  
New Delhi.
3. The Director,  
Central Government Health Scheme,  
Government of India, Nirman Bhawan,  
New Delhi.
4. Dandakaranya Development Authority,  
Dandakaranya Project,  
Office of the Chief Medical Officer,  
Government of India, Malkangiri Colony,  
Koraput, Orissa. ....Respondents  
By Advocate: None.

O R D E R (ORAL)  
(delivered by Hon. Member(J) Shri C.J. ROY)

Neither the applicant nor his counsel has put  
in appearance, inspite of ample opportunity given to  
him for producing the relevant judgement which is  
stated to be in his favour.

2. This is an old matter of 1989 posted for final  
hearing today. The applicant in this case was  
appointed as X-Ray Technician in Dandakaranya Project  
and was subsequently promoted to the post of X-Ray  
Technician (Selection Grade).

3. He claims for the following reliefs:

a) Fixation of pay in the revised pay scale of Rs.1600-2900, which has been given to Nursing Sisters, who were having identical scale of Rs.455-700 as that of the petitioner on the post of X-Ray Technician (Selection Grade), which is the corresponding pay scale as given in Part-B-IX Para Medical Staff, item 6-Nursing Sisters of the First Schedule attached to the Central Civil Services (Revised Pay) Rules, 1968.

b) The pre-revised pay scale of Rs.455-700 of Nursing Sisters has been given the revised scale of pay of Rs.1640-2900 under the Revised Pay Rules, 1986 and the Nursing Sisters have been given revised pay scale of Rs.1600-2900, and the petitioner is also entitled to the same scale of pay on the basis of his pre-revised scale of pay, and he cannot be given the pay scale of Rs.1400-2600 on the alleged basis for no fault of his own and can be discriminated on the said basis. The petitioner is entitled to the revised pay scale of Rs.1600-2900 with effect from 1st January, 1986 and seeks the same.

4. The applicant claims the relief mainly basing on the ground that the recommendation of the IV Pay Commission and also the clarification issued by the Government of India to the Dandakarnaya Project Headquarter regarding revision of pay of the medical staff of the project in accordance with the corresponding scales of pay prescribed in Part-B of the Report under the heading 'IX-Para Medical Staff', proposals for revising the pay of the applicant in the pay scale of rs.1600-2900. Since the proposal was not accepted, the pay of the applicant was fixed in the revised pay scale of Rs.1400-2600, which scale has been given to the staff nurses, who were getting the pay scale of Rs.425-640 and Rs.425-700 before revision. The applicant, feeling discriminated of his being denied the benefit of the IV Pay Commission as against the staff nurses who were considered for the

revised scale, has filed this OA praying for the above reliefs attaching the relevant portion of the report of the IV Pay Commission.

5. The respondents have filed the counter stating that the applicant has no cause of action. X-Ray technician and nursing sisters are not identical and as such the pay scale of the applicant cannot be compared to the pay scales of the nursing sisters. The respondents further aver that the applicant was originally appointed as a X-ray Technician in the dandakarnaya Project. The pay scale was fixed at Rs. 425-640 w.e.f. 1.1.73 in accordance with the III Pay commission. He was subsequently given the selection grade pay scale at Rs. 425-700 but the selection post of him was a non-functional post thereby meaning, there is no additional responsibility given to the applicant. As per C.C.S. (Revised Pay) Rules, 1986, the corresponding revised pay scale to the posts in the pay scale of Rs. 425-640 and 425-700 is Rs. 1400-2300 as per the part-A to the first schedule of the IV Pay Commission recommendation (Annexure A/1). Further the para medical staff of the project were allowed the corresponding revised pay scale indicated in Part-B to the first schedule of the above said IV Pay Commission recommendations. According to them, the Selection Grade Radiographers/X-Ray Technicians/Pharmacist(SG) in the pay scale of Rs. 425-640 and X-Ray Technician in the pay scale of Rs. 425-700 are to be allowed the corresponding revised scale of Rs. 1400-2600 w.e.f. 1.1.86. The anomaly pointed out by the applicant is not tenable as according to the respondents the post

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of the nursing sisters in the scale of Rs. 425-700 has been specifically given the basic scale of Rs. 1640-2900, wherein, no specific scale for X-Ray technician in the scale of Rs. 425-700 were given. Therefore, the applicant is not entitled to the pay scale of Rs. 1640-2900. They also aver that after the ~~JCM~~ recommendations and after consultation with the representative of the other side in the JCM, these revised pay scales were fixed. Hence, the OA be dismissed.

6. The applicant has also filed his rejoinder more or less asserting the same points as stated in the OA.

7. We have heard the learned counsel for both parties and perused the documents on record. The short point for consideration in this OA is whether the applicant is entitled to the revised pay scale as are given to the Nursing Sisters consequent upon the IV Pay Commission Recommendations.

8. We see Annexure A-1 notification at page 9 of the OA, G.S.R.1080(E) published on 13 September, 1986. In this, at internal page-10 at para IX, they have given the scales of pay of Para Medical Staff. On careful perusal of this, we find that the radiographers/X-Ray Technicians/Pharmacists pay in the scale of pay of Rs. 330-560 has been fixed in the scale of Rs. 1350-2200. In the Serial No. 2 and 3, <sup>Technicians</sup> S.G. Radiographers/X-Ray/Pharmacists(S.G.) who were having two pay scale of Rs. 425-640 and 425-700 have been given the scale of pay of Rs. 1400-2600. At

18

for Nursing Sister

Sl.No.6(i)(ii)(iii), it is specifically mentioned that the scales of pay 455-700, 470-750, 550-700 have been revised to Rs.1640-2900. By this, we see that the X-Ray Technician and Nursing Sister have been given separate scales and specifically the case of the applicant's scale is not mentioned in this para. Therefore, the fixation has to be as per the general equivalence in scale as provided in Part-A. In the first schedule, with reference to the Rules 3 and 4 of the said notification, the endorsement below Part-A mentions that the revised scales as shown in Part-A will apply to all posts for which different revised scales are not notified separately. The separate notification for specified categories of staff is shown in Part-B and under Section 9ix) of the Part-B, certain categories of paramedical staff as mentioned above have been singled out for specific equivalence. As regards the applicant, he was given the scale of Rs.475-700 in the selection grade of X-Ray Technician and this particular scale does not figure in the special list in Part-B for X-Ray Technicians. The respondents have explained that the non-functional ~~scales~~ basis had been left out in the special equivalence list (Part-B) in the ~~documents~~ context of the specific recommendation of the Pay Commission for discontinuance of the selection grades as such. Hence for the scales that are applicable to various non-functional selection grades, the general equivalent scales contained in Part-A are to be referred. The equivalent scale of Rs.475-700 in para-A is only 1400-2600. But still the scale of 1400-2600 is allowed to the applicant since the post of X-Ray Technician has been in the erstwhile lower

scale of Rs.425-700, (as per the special list in Part-B) the scale of Rs.1400-2600 has been allowed. In the circumstances, we find that this is ~~the~~ case where the orders of the respondents cannot be interfered with. The OA is dismissed accordingly. No costs.

P. J. Roy

(P.T. THIRUVENGADAM)  
MEMBER (A)  
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W. Roy  
(C.J. ROY)  
MEMBER (J)  
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