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OA-1542/90

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Date	Office Report	Orders
	31 <sup>8</sup> / <sub>44</sub>	OA dismissed by by a Bench comprising of- Hon'ble Mr. N. V. Krishnam, J (A) & Hon'ble Mr. C. J. Ray, J (S)  Bc. M. d. C. (C.M.)

Central Administrative Tribunal  
Principal Bench: New Delhi

OA No.1542/90

New Delhi this the 31st Day of August, 1994.

Sh. N.V. Krishnan, Vice-Chairman (A)  
Sh. C.J. Roy, Member (J)

Dr. Chavali Hari Shankar Sastry,  
R/o RZ-DZ/29, Mahavir Enclave,  
New Delhi-110045. ...Applicant

(By Advocate Sh. M.C. Sharma)

Versus

1. Union of India,  
Nirman Bhawan, New Delhi.
2. Secretary, Ministry of Health,  
Nirman Bhawan, New Delhi. ...Respondents

(By Additional Standing Counsel Sh. M.K. Gupta)

ORDER(ORAL)

Hon'ble Mr. N.V. Krishnan:-

The applicant is a Deputy Adviser Ayurvedic in the Ministry of Health, i.e., the second respondent. The grievance concerns the pay scale given to this post on the recommendation of the Fourth Central Pay Commission.

2. Admittedly, there is a three tier structure where the lowest post of Assistant Adviser is on the pre-revised scale of Rs.1100-1600, Deputy Adviser Rs.1300-1700 and Adviser Rs.1800-2250.

3. When the Fourth Central Pay Commission considered the question of the revised pay scale for the pre-revised scale Rs.1300-1700<sup>it</sup> had noted that there was a scale of Rs.1200-2000 predominantly for the senior time scale of I.A.S. and Indian Forest Service and that it was also the senior time scale and the junior administrative grade of the Central Service. It noted that the scale of

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Rs.1300-1700 is given by promotion from the posts in the grade of Rs.1100-1600. Thereafter the Fourth Central Pay Commission made the following observations:-

"We feel that in the interest of rationalisation of scales it should be examined if this additional level provided by the scale of Rs.1300-1700 could be abolished or merged with posts in the Senior Time Scale or JAG depending upon the duties of the posts etc. Until such review, the posts in this scale can be grouped with those in the scale discussed here. We accordingly recommend that posts in the scales of (a) Rs.1200-1900; (b) Rs.1200/- Rs.2,000/-. (c) Rs.1200-2000 and (d) Rs.1300-1700 may be given the scale of Rs.3000-100-3-3500-125-5000 (Annexure E)."

The grievance of the applicant is that in regard to the Deputy Adviser's post the revised pay scale was fixed at Rs.3000-5000 as recommended by the Fourth Central Pay Commission subject to their observation above and in regard to the Assistant Adviser the pay scale fixed is Rs.3000-4500. The main grievance is that not only the initial pay, but practically for quite some time the pay scale of the feeder post and the pay scale of the senior post, i.e., Deputy Adviser, overlapped. In other words, though a person is appointed to a higher post he practically does not get any benefit. It is pointed out that in the matter of direct recruitment/ <sup>as Deputy Adviser,</sup> the person concerned is required to have considerable experience.

4. The grievance is that though the Pay Commission recommended that the matter should be

reviewed, yet no review has been undertaken till the OA was filed.

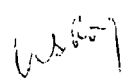
5. Subsequently, it would appear from the reply of the respondents that the matter was taken up for consideration, as recommended by the Pay Commission and the issue was duly examined by the respondents in consultation with the Ministry of Finance. It was then decided that no change was necessary and that the pay scale of Rs.2000-5000, as recommended by the Fourth Pay Commission be retained instead of revising it to Rs.3700-5000. However, in para 4(j) of the respondents' reply it was stated that nevertheless the matter was again being re-examined.

6. When the matter was heard today, the learned counsel for the respondents pointed out that the reply-affidavit was verified on 26.11.90. At that point of time, there was indeed a decision to re-examine the matter. He stated that the Doctors had gone on strike and that, therefore, the Government had appointed a Committee, popularly known as the Tikku Committee to go into the entire question. That Committee made its recommendation somewhere in 1990 and orders of the Government in respect of those recommendations have been issued effective from 5.12.91. According to that recommendation the post of Deputy Adviser has now been revised to Rs.3700-5000 w.e.f. 5.12.91.

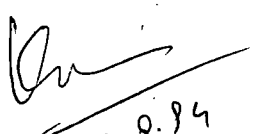
7. The learned counsel for the applicant submits that it would now be evident that, all along, the Deputy Advisers have suffered by having their pay scale stepped down practically to the level of the

Assistant Adviser from 1.1.86, whereas prior to that date there was a difference both in the minimum and the maximum of the pay scale of the Assistant Adviser and Deputy Adviser. He, therefore, submits that the decision to revise the pay scale to Rs.3700- 5000 should be made effective from 1.1.86, i.e., the date on which the recommendations of the Fourth Central Pay Commission have been made effective by the decision of Government.

8. We have carefully considered this matter. It appears that all general decisions of Government on the recommendations of the Fourth Central Pay Commission have been made effective from 1.1.86. There are various matters which have been specifically referred for consideration by Government. In regard to these matters, the Commission has not recommended that the decision that Government might take should also be made effective from the same date. Where Government has taken decision to give effect to such individual decisions prospectively, we are of the view that it is purely a policy decision and it is not a matter where judicial interference is called for, particularly when no right is shown to exist that such decision should be made effective from 1.1.86. In the circumstances, we find that there is no merit in the O.A. It is accordingly dismissed. No costs.

  
(C.J. Roy)  
Member(J)

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31.8.84  
(N.V. Krishnan)  
Vice-Chairman(A)