

Central Administrative Tribunal  
Principal Bench, New Delhi.

OA-2215/2004

New Delhi this the 25<sup>th</sup> day of April, 2006.

Hon'ble Mr. Justice M.A. Khan, Vice-Chairman(J)  
Hon'ble Mrs. Chitra Chopra, Member(A)

Sh. B.D. Bajaj,  
Junior Inspecting Officer(F&VP)  
(Retired), 16/7, West Patel Nagar,  
New Delhi-110018.

..... Applicant

(through Sh. A.S.N. Murthy, proxy for Sh. S.N. Anand, Advocate)

Versus

1. Union of India through  
Secretary,  
Ministry of Food Processing Industries,  
Krishi Bhawan,  
New Delhi.
2. The Under Secretary,  
Ministry of Food Processing Industries,  
Parichsheel Bhawan,  
August Kranti Marg,  
New Delhi-110049.
3. The Deputy Technical Adviser,  
Head of Office,  
Ministry of Food & Civil Supplies,  
Department of Food, Food and Nutrition  
Board, Northern Region,  
Janmagar House,  
New Delhi-110011.

..... Respondents

(through Sh. H.K. Gangwani, Advocate)

O R D E R

Hon'ble Mrs. Chitra Chopra, Member(A)

In the present OA, the applicant seeks re-determination of pensionary benefits in the pay scale of Rs.2000-3500/- instead of in the pay scale of Rs.1640-2900/-. He has sought the following reliefs:

"a) Set aside and quash the impugned orders dated 3.7.2003 and 15.7.2004 (A/1) denying the applicant re-fixation of pension on the basis of revised pay scale of Rs.6500-200-10,000/-.

b) Direct respondents to re-fix his pay in the scale of Rs.2000-3500/- from 1.1.1986 and grant arrears to the applicant.

*Chitra Chopra*

c) Direct respondents to re-determine pensionary benefits of the applicant after fixation of his pay in the pay scale of Rs.2000-3500/- instead of in the pay scale of Rs.1640-2900/-."

2. Learned counsel for the applicant has made the following submissions in the OA:

The applicant entered into service as Senior Inspector (Fruit Products) w.e.f. 20.10.1966 and was promoted as Assistant Marketing Officer (Group-I) vide order dated 26.2.80 effective from 2.1.1980 (Annexure A/2). On the recommendation of UPSC, the applicant was subsequently appointed as Junior Inspecting Officer (F & VP) vide order 1.4.1980 in the pay scale of Rs.550-900/- (Annexure A/3). After acceptance of IVth Central Pay Commission recommendations, his pay was fixed at Rs.2675/- from 1.1.96 in the pay scale of Rs.1640-2900/-.

3. It is pertinent to mention here that there were two grades under the Ministry, namely Junior Inspecting Officer and Assistant Marketing Officer in the pay scale of Rs.550-900/- before IVth Pay Commission. The IVth Central Pay Commission (CPC) recommended merger of various cadres in Marketing Wing and, inter alia, recommended pay scale of Rs.2000-3500/- to the Assistant Marketing Officer by way of replacement scale (Annexure A/6). The applicant sought voluntary retirement w.e.f. 31.5.1993. Consequent upon his voluntary retirement, his pensionary benefits have been calculated in the scale of Rs.1640-2900/. Certain Junior Inspecting Officers in Regional Offices of Deputy Directors (F & VP) in the Ministry of Food Processing Industries vide order dated 17.9.1993 were appointed in the pay scale of Rs.2200-4000/- on ad hoc basis. Some of his juniors who were in the pay scale of Rs.1640-2900/- came to be promoted as Senior Inspecting Officer in the pay scale of Rs.2200-4000/-, while he was denied the pay scale of Rs.2000-3500/- in lieu of pay scale of Rs.1640-2900/-.

4. The Vth Central Pay Commission taking note of the fact that both Assistant Marketing Officer and Junior Inspecting Officer were at the level of Rs.550-900/- (pre-revised) and both had the status of Group 'B'

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Gazetted, recommended both of them to be placed in the pay scale of Rs.2000-3500/- . However, the Government, vide OM dated 12.12.1997, decided to implement the recommendations of Vth Central Pay Commission in respect of Junior Inspecting Officers(F& VP) by upgrading the pre-revised pay scale of Rs.1640-2900 to Rs.2000-3500/- . However, the benefit of such upward revision of the pay scale to Junior Inspecting Officers has been restricted from 1.1.1996. The applicant has sought revision of his pension and pensionary benefits on the basis of revised pay scale of Rs.2000-3500/- instead of Rs.1640-2900/-.

5. In the counter reply, the learned counsel for the respondents has made the following submissions:

There is no post in the Directorate corresponding to the pay scale of Rs.2000-3500/- as averred by the applicant. Moreover, the action of the respondents promoting incumbents to the post of Junior Inspecting Officer (F &VP) carrying the pay scale of Rs.1640-2900/- to the post of Senior Inspecting Officer (F & VP) in the pay scale of Rs.2200-4000/- was taken on 17.9.93 after the voluntary retirement of the applicant i.e. 31.5.1993. Further, the promotions were done as per the cadre structure and hierarchy of posts, provisions of Recruitment Rules and seniority list that existed at that time and was totally in accordance with extant instructions of Govt. of India.

6. As regards the question of denying pay scale of Rs.2000-3500/- to the applicant, it has been submitted that the V th Central Pay Commission in its report dated 30.01.1997 recommended revision of pay scale of Rs.1640-2900/- of the post of Junior Inspecting Officer (F & VP) to Rs.6500-10,500/- to be effective from 1.1.1996 whereas the applicant voluntarily retired from service on 31.5.1993 i.e. long before 1.1.1996. It has been submitted that there is nothing arbitrary, discriminatory, hostile on the part of respondents in denying the said pay scale. The representations made by the applicant were duly responded to by the competent authority and the position was accordingly made clear to him.

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7. We have heard the arguments of both the learned counsel for the parties and have perused the material on record.

8. The basic issue involved in this case is whether the applicant can claim higher pay scale of Rs.6500-10500/- which became effective from 1.1.1996 in the face of the fact that he retired voluntarily from service on 31.5.1993. It is abundantly clear that pensionary benefits are invariably admissible in the pay scale which the employee was drawing at the time of retirement. There is no dispute that the applicant retired voluntarily w.e.f. 31.5.1993, and, therefore, the respondents were justified in rejecting applicant's representation for re-fixation of pensionary benefits on the basis of higher pay scale which became effective from 1.1.1996 i.e. after his retirement.

8. One of the contentions of the applicant is that his juniors were appointed as Senior Inspecting Officer in the pay scale of Rs.2200-4000/- w.e.f. 14.9.1993 vide order dated 17.9.1993 (Annexure-8) and he was denied the same and thus the action of respondents in denying the applicant the said higher pay scale is arbitrary and discriminatory. This contention of the applicant has been controverted by the respondents by stating that the officials who were working as Junior Inspecting Officer were promoted to the post of Senior Inspecting Officer in the pay scale of Rs.2200-4000/- w.e.f. 14.9.1993 while the applicant had already retired on 31.5.1993. Thus, there is no ground to grant any promotion or pensionary benefits in the higher pay scale after his retirement i.e. 31.5.1993.

10. In view of above discussion, we find no merit in the case which is liable to be dismissed. Accordingly, the OA is dismissed. No costs.

*Chitra Chopra*  
(Chitra Chopra)  
Member(A)

*M.A.Khan*  
(M.A.Khan)  
Vice Chairman(J)

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