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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

OA NO. 1279/2004

This the 3rd day of August, 2005

**HON'BLE MR. JUSTICE M.A.KHAN, VICE CHAIRMAN (J)
HON'BLE MR. S.A.SINGH, MEMBER (A)**

Birbal Tondon,
Working as Hindi Officer
In C.G.H.S. (Hqrs), Nirman Bhawan,
New Delhi.Applicant.

(By Advocate: Sh. Yogesh Sharma)

Versus

1. Union of India through the Secretary,
Ministry of Health & Family Welfare,
Govt. of India, Nirman Bhawan,
New Delhi.
2. The Director,
Central Govt. Health Scheme,
Nirman Bhawan, New Delhi.Respondents.

(By Advocate: Sh. Madhav Panikar)

ORDER

Hon'ble Mr. Justice M.A.Khan, Vice Chairman (J)

Applicant is working as a Hindi Officer in the office of Central Government Health Scheme of Ministry of Health and Family Welfare, respondent No.2, in the pay scale of Rs.6500-10,500. He is aggrieved that Hindi Officer/Assistant Directors working in other Ministries and Departments have been granted the pay scale of Rs.7500-12000 w.e.f. 1.1.96 whereas he has been placed in the pay scale of Rs.6500-10500. He has filed this OA for a direction to the respondent to consider his case also for grant of upgraded scale of Rs.7500-12000 w.e.f. 1.1.96 by quashing the impugned order dated 1.8.2001 whereby his representation in this regard was turned down.

2. According to the applicant Hindi Officers, who in some other department are designated as Assistant Directors, were in the pay scale of Rs.2000-3500 prior to 1.1.96. While implementing the recommendations of the 5th Pay Commission the pay scale of these officers in other Ministries and Departments including the Ministry of Health and Family Welfare has been revised to Rs.7500-12000. The

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applicant, who is working in subordinate office of the said Ministry, is also entitled to be placed in an identical pay scale at par with similarly situated persons but his representation has been refused by the order, which is impugned in the OA.

3. The respondents have repudiated the claim of the applicant in the reply and have pleaded that pre-revised scale of the post of Hindi Officer in the office of Additional Director (HQ) CGHS, which is a subordinate office of Ministry of Health and Family Welfare was Rs.2000-3500 which has been replaced by a revised scale of Rs.6500-10,500 and that the post of Hindi Officer has not been redesignated as Assistant Director yet. It was further stated that the recommendation of the 5th Central Pay Commission made in para 74.29 related to the Directorate General of Mines Safety and would not apply to the applicant. General recommendations with regard to the pay scale of Hindi post in various other subordinate offices of the Government were in para 70.134 of the report where two grades of Assistant Directors i.e., Assistant Director Grade-I and Assistant Director Grade-II in the pre-revised scales of Rs.2500-4000 and Rs.2000-3500, were recommended. Since there was one isolated post of Hindi Office in the office of the Additional Director (HQ) CGHS, which is a subordinate office of the Directorate General of Health Services, there was no scope for having two separate grades in accordance with the recommendations of Pay Commission. Accordingly, the applicant had been allowed only a normal replacement scale of Rs.6500-10,500 in accordance with the First Schedule attached to the CCS (Revised Pay) Rules, 1997 (Anneuxre R-1). It was further stated that the Central Pay Commission in para 70.120 of the Report pertaining to Central Secretariat Official Language Service also, has recommended two grades of Assistant Director Grade-I and Assistant Director Grade-II in the pre-revised scales of Rs.2500-4000 and Rs.2000-3500 respectively by redistributing the total number of posts. It was, therefore, denied that all persons who are working in the pre-revised scale of Rs.2000-3500 have been allowed the replacement scale of Rs.7500-12000. As regards the post of Assistant Director (OL) in the Ministry of Health and Family Welfare which is part of Central Secretariat Official

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Language Service, it is stated that it cannot be compared with the post of Hindi Officer which existed in a subordinate office.

4. In the rejoinder applicant has reiterated his case and denied the allegations of the respondents.

5. We have heard the learned counsel for the parties and have carefully perused the record.

6. Admittedly, the applicant is working as Hindi Officer in the subordinate office of Ministry of Health and Family Welfare. In certain Ministries and Departments the post of Hindi Officer has been designated as Assistant Director.

5th Central Pay Commission in para 74.29 of its report had recommended for placing the post of Hindi Officer in the replacement scale corresponding to Rs.2500-4000 and the same pay scale was given to the Hindi Officers, who are presently in the (pre-revised) scale of Rs.2000-3500. But this recommendation is specifically related to Hindi Officer in the Directorate of General of Mines and Safety. No such specific recommendation was made in respect of Hindi Officer working in the Ministry of Health and Family Welfare. Therefore, general recommendation will apply to them. In para 70.134 of the report 5th Central Pay Commission had recommended pay scale for different categories of posts in subordinate offices and suggested that the proposed hierarchy may be applied to all subordinate officers subject to their functional requirement. The hierarchy proposed was as under:-

Director	(Rs.3700-5000)
Dy. Director	(Rs.3000-4500)
Asstt. Director Gd.I	(Rs.2500-4000)
Asstt. Director Gd.II	(Rs.2000-3500)
Sr. Hindi Translator	(Rs.1640-2900)
Jr. Hindi Translator	(Rs.1600-2660)

7. The applicant was working in the pre-revised pay scale of Rs.2000-3500. As per this recommendation he was given replacement scale of Rs.6500-10,500 i.e. the grade which was attached to the post of Assistant Director Grade-II since he was working in the office of the Additional Director (HQ) CGHS which is subordinate office. It is an isolated post. Fixing the pay scale of posts in

Ministries/Secretariat Head Office of Departments and the different subordinate offices working under them is in the domain of the State Policy and unless it is in contravention of the statutory provision or the provisions of the Constitution of India or there is hostile discrimination with him, the Tribunal in exercise of its power of judicial review will not be able interfere with it.

8. Certain Assistant Directors in other Ministries have been granted the pay scale of Rs.7500-12000 but no instance or example has been shown that Hindi Officer in a subordinate office of other Ministry who were in the pre-revised scale of Rs.2000-3500 have been granted the scale of Rs.7500-12000. The learned counsel for applicant has filed copies of certain orders in support of the claim of the applicant. First document is an office order of Ministry of Home Affairs dated 26/27.2.2003 whereby Assistant Directors of Central Secretariat Official Language Service, who were earlier in two grades of Grade-I (Rs.7500-12000) and Grade-II (Rs.6500-10,500) have been placed in the common grade of Rs.7500-12000 w.e.f. 11.2.2003. The post of Hindi Officer in a Subordinate Office cannot be compared with the post of Assistant Director in Central Secretariat Official Language Service. Even this difference in grade is obvious in the post of Assistant Director (OL) in Ministry of Health and Family Welfare and which is post of Central Secretariat Official Language Service. The applicant is working in the subordinate office of that Ministry and cannot claim parity in the pay scale of the officers of C.S. OL Service working in the Ministry.

9. Next document is a copy of an order of Ministry of Health and Family Welfare dated 6.7.2004 whereby the pay of an officer who was appointed as Assistant Director (OL) in the Department of Health of the Ministry on 3.2.1997 was fixed in the pay scale of Rs.7500-12000 notionally w.e.f. 3.2.1997 and arrears of pay and allowances were granted w.e.f. 11.2.2003. Similarly vide third document which is copy of an office order dated 13.10.2004 the Directorate General of Health Services has fixed the pay of an Assistant Director (OL) w.e.f. 1.1.96 in the upgraded scale of Rs.7500-12000 on notional basis. Both these officers were working in the Headquarter and were in Central Secretariat Official

Language Service and not subordinate offices so no advantage of it can be given to the applicant.

10. Yet another document filed by the applicant is an office order of the Ministry of Defence dated 2.12.2004 whereby the pay scale of Armed Forces Headquarters Official Language Service were upgraded and the pay scale of Assistant Director (OL) was upgraded from Rs.6500-10,500 to Rs.7500-12000. The applicant cannot equate him with the officers of ASHQ OLS so this document is also of no help to her case.

11. In State of Haryana and another vs. Haryana Civil Secretariat Personal Staff Association JT 2002 (5) 189 the Hon'ble Supreme Court has made the following observation:-

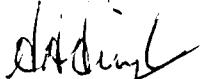
“Ordinary a pay structure is evolved keeping in mind several factors, e.g. (i) method of recruitment (ii) level at which recruitment is made, (iii) minimum educational/technical qualifications required, (v) avenues of promotion, (vi) the nature of duties and responsibilities, (vii) the horizontal and vertical relativities with similar jobs, (viii) public dealings, (ix) satisfaction level, (x) employer's capacity to pay, etc. We have referred to these matters in some details only to emphasize that several factors have to be kept in view while evolving as pay structure and the horizontal and vertical relativities have to be carefully balanced keeping in mind the hierarchical arrangements, avenues for promotion, etc. Such a carefully evolved pay structure ought not to be ordinarily disturbed as it may upset the balance and cause avoidable ripples in other cadres as well. It is presumably for this reason that the judicial secretary who had strongly recommended a substantial hike in the salary of the sub-registrars to the second (state) pay commission found it difficult to concede the demand in his capacity as the chairman of third (state) pay commission. There can, therefore, be no doubt that equation of posts and equation of salaries is a complex matter which is best left to an expert body unless there is cogent material on record to come to a firm conclusion that a grave error had crept in while fixing the pay scale for a given post and court's interference is absolutely necessary to undo the injustice.”

12. The ordinary replacement scale of the pre-revised scale of Rs.2000-3500 was Rs.6500-10,500/- and after two pay scales Grade-I and Grade-II were recommended by the 5th Central Pay Commission, the respondent have placed the applicant in grade-II of the Assistant Director obviously keeping in view the fact that it was an isolated post in the subordinate office and keeping in view of the relevant factor which are kept in mind while deciding about the pay scales. The decision of the respondent in this regard is in accord with the principles of law laid down in the above judgment of the Hon'ble Supreme Court in State of

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Haryana and another (supra). Applicant has not been able to show that there has been any hostile discrimination in the matter of the grant of replacement pay scale which may warrant interference by this Tribunal.

13. The result is that we do not find merit in this OA. It is dismissed. Parties are left to bear their own costs.


(S.A. SINGH)
Member (A)


(M.A. KHAN)
Vice Chairman (J)

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