

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 471/2004

New Delhi, this the 21st March, 2006

Hon'ble Mr. Justice B. Panigrahi, Chairman.

Hon'ble Mr. N.D. Dayal, Member (A)

Shri Har Sai
S/o Shri Prabhat,
R/o House No. 434, Block-C,
Gokul Puri,
Delhi-110094.

...Applicant.

(By Advocate: Shri Sachin Chauhan)

Versus

1. Union of India,
Through its Secretary,
Ministry of Home Affairs,
North Block, New Delhi-110001.
2. Directorate General,
Bureau of Police Research & Development,
Block No. 11, 3/4th Floor, CGO Complex,
Lodhi Road, New Delhi-110003.
3. Ministry of Finance,
Through its Secretary,
Department of Expenditure,
(Implementation Cell)
North Block, New Delhi-110 001.
4. Ministry of Statistics and Programme Implementation,
Through its Secretary,
Sardar Patel Bhawan, Sansad Marg,
New Delhi-110001.

... Respondents.

(By Advocate: Ms. Lata Sharma for Shri D.S. Mahendru)

ORDER

By Mr. N.D. Dayal, Member (A):

The applicant was appointed as Statistical Assistant in Bureau of Police Research & Development (BPRD), Ministry of Home Affairs on 6.2.1996 on regular basis in the pay scale of Rs. 1400-2300/- whose

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normal replacement scale vide the 5th Central Pay Commission (5th CPC) is Rs. 4500-7000/-. This was further upgraded to Rs. 5000-8000/- as per para 81.17 of the 5th CPC recommendations. He is aggrieved that even though he was eligible in terms of the recommendations of 5th CPC for higher pay scale of Rs. 5000-8000/- and re-designation as Statistical Investigator Grade-II from 1.1.1996, he has not been extended the benefit. Further, the post was also to be included in the Subordinate Statistical Service, which has not been done. Instead by the impugned order dated 27.11.2003 his representations dated 20.10.2003 and 7.11.2003, in this regard, have been turned down stating that the Ministry of Finance, Department of Expenditure (Implementation Cell) have considered the case and not found it feasible to agree to it. No reasons have been indicated therein as to why it has not been found feasible. The applicant has, therefore, filed this application seeking the following reliefs:

"To set aside the impugned order at Annexure A-1 and to direct the respondents to grant the applicant with the upgraded pay scale of Rs.5000-8000 and its redesignation as Statistical Assistant Investigator Gr. II w.e.f. 1.1.1996 and also to take immediate action of including the post of Statistical Assistant and holder of statistical function post of BPR&D in Subordinate Statistical Services with Seniority as per the recommendation of 5th Central Pay Commission with all consequential benefits including Seniority, Promotion and Pay & Allowances w.e.f. 1.1.1996."

2. The respondents have disputed the claim of the applicant by their counter reply to which a rejoinder has been filed.
 3. We have heard the learned counsel for both parties and gone through the records of the case.
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4. It would be useful to reproduce Para-81.17 of the recommendations of the 5th CPC which are as under:-

Para-81.17: A large number of posts of Junior and Senior Statistical Investigators in the scales of 1400-2300 and 1640-2900 are spread over different Ministries and Offices of the Government of India. We observe that some of these posts are isolated and the chances of promotions for the incumbent in such cases are very bleak. We recommend that all such posts with statistical functions be constituted into a subordinate statistical service and all recruitment to the feeder posts in Indian Statistical Service be centralized and placed under the ISS Cadre Controlling Authority. All posts of Junior Statistical Investigator in the scale of Rs. 1400-2300 be upgraded and given the replacement scale of Rs. 1600-2660. All Junior Statistical Investigator/Statistical Assistants in the scale of 1400-2300 will henceforth be called Statistical Investigators Grade II. All posts of Senior Statistical Investigators/ Assistants at present in the pay scale of Rs. 1640-2900 may be given the replacement scale of Rs. 2000-3500 and be called Statistical Investigators Grade-I. At a level of Statistical Investigator Grade-II, recruitment may be taken up with graduation in statistics as the minimum qualification. The entrants in this scale would move through the replacement scale of Rs. 1640-2900 and Rs. 2000-3500 in a time bound manner. Post Graduation may be made the minimum qualification for entry to 50% of the post of Statistical Investigator Grade-I. The entrants to this level will move through the replacement scale of Rs. 2375-3750 and the entry scale of ISS Group A in a time bound manner.

5. The applicant has drawn attention to OM dated 14.10.1997 and thereafter OM dated 30.6.1998 issued by the Department of Statistics. All Ministries and Departments were first advised to give normal replacement scales to all Group 'B' and Group 'C' statistical posts with reference to the existing scale of pay. But after obtaining clarification from the Implementation Cell, Department of Expenditure, Ministry of Finance, it
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was advised by the OM dated 30.6.1998 to grant upgraded pay scale from 1.1.1996 which was recommended by the 5th CPC subject to the condition that the Administrative Ministries / Departments concerned agree in principle to the changes in the recruitment rules as recommended by the 5th CPC to the extent of direct recruitment, educational qualification etc. and amend them later on with the approval of the competent authority. The applicant has further drawn attention to the order passed by this Tribunal in OA 2149/2003 on 7.4.2005 in a similar matter relating to the Department of Food & Public Distribution in which Department of Statistics was a party. The Tribunal had allowed the application directing the respondents to consider the placement of the applicant and similarly situated persons in the upgraded scale of Rs. 5000-8000/- from 1.1.1996 with consequential benefits.

6. It is not disputed that the pre-revised normal replacement and upgraded replacement pay scales were as under:

Pre-revised Scale	Normal replacement pay scale	Upgraded replacement pay scale to be granted w.e.f. 1.1.1996
Rs.1400-2300	Rs.4500-7000	Rs.5000-8000
Rs. 1600-2660	Rs. 5000-8000	Rs.5500-9000
Rs.1640-2900	Rs. 5500-9000	Rs.6500-10500

It has thus been contended by the applicant that since the conditions spelt out in OM dated 30.6.1998 have been accepted by the BPRD the upgraded pay scale of Rs.5000-8000/- should have been granted to him subject to amendment of recruitment rules etc. in due course.

7. While it is not disputed by the respondents that the educational qualifications are not an impediment in this matter but when they referred

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the case for grant of upgraded pay scale, the Ministry of Finance clarified that the Department of Expenditure (Implementation Cell) had not agreed to the upgradation of pay scales of Statistical Assistants in the BPRD as the 5th CPC had recommended placement of only such posts of Junior Statistical Investigators and equivalent in the pay scale of Rs.5000-8000/- as were filled up 100% by direct recruitment of Graduate and this condition was not satisfied because the post in BPRD is filled up primarily by transfer on deputation failing which by direct recruitment. It is further submitted that the applicant was informed of the decision of the Ministry of Finance officially on 16.12.2003 in reply to a representation dated 27.11.2003 made by him but no copy of such communication is on record except the impugned order which is dated 27.11.2003.

8. In his rejoinder, the applicant has expressed the grievance that such reason for denial of upgradation of pay scale of Rs.5000-8000/- is without any basis since there is no recommendation of 5th CPC whereby it is mandatory that only those posts of Junior Statistical Investigator and equivalent as were filled by 100% direct recruitment will be eligible. In this manner, since the Statistical Investigator Grade-I is being included in the Subordinate Statistical Service, there would be no avenue of promotion left. Besides, the Statistical Investigator Grade-I has already been given the benefit of the relevant upgraded pay scale. We find that one Dr. Rita Tiwari Statistical Assistant was informed by order dated 4.2.2005 that for the same reason as in the case of the applicant, the upgraded pay scale of Rs.5000-8000/- has not been agreed to by the competent authority. However, it was confirmed that the post of Statistical Assistant in the

BPRD has been proposed for inclusion in the Subordinate Statistical Service in feeder grade for Statistical Investigator-IV of Subordinate Statistical Service with the existing (normal replacement) scale of pay of Rs. 4500-7000/- as per the 5th CPC recommendations and outcome of the same would be intimated in due course.

9. During the course of hearing of this matter, the case was re-listed 'for being spoken to' in order to confirm the actual date of appointment of the applicant and also for production of a copy of the recruitment rules, according to which, the post is to be filled by transfer on deputation failing which by direct recruitment and whether the applicant was appointed by transfer on deputation or otherwise. It was also desired to have the exact recommendation of the 5th CPC relied upon by the respondents for a decision in this matter. Accordingly, the respondents were granted leave to file an additional affidavit, which has been placed. A perusal of the same confirms that the applicant was appointed as Statistical Assistant in the BPRD w.e.f. 6.2.1996 in the pay scale of Rs.1400-2300/- following his selection by the Staff Selection Commission (SCC). A perusal of the recruitment rules shows that the method for recruitment is provided as transfer on deputation failing which by direct recruitment. The respondents have also annexed a copy of Paras 81.15, 81.16 and 81.17 of the recommendations of the 5th CPC. However, it has not been explained as to how from the contents of these recommendations, it could be concluded that only such of those posts of Junior Statistical Investigators and equivalent were recommended to be placed in the pay scale of Rs.5000-

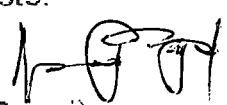
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8000/- as were filled 100% by direct recruitment of graduates. Para 81.15 is with regard to the upgradation of Superintendents in the Field Operations Division of NSSO. Para 81.16 is about upgradation of the Assistant Superintendents and Investigators in NSSO. Para 81.17 relates to the post of Junior and Senior Statistical Investigators, which is directly related to the case of the applicant. However, the contention of the respondents is not borne out by these 5th CPC recommendations which have been produced before us and there is no other material on record or to which our attention has been drawn that may justify their stand. Rather, the 5th CPC recommendations point towards only future induction accordingly, which also follows from Government OM dated 30.6.1998. Besides, it is not explained why the applicant's selection by the SCC should not be regarded as direct recruitment. It is, however, noted that in the meanwhile the applicant had been promoted as Statistical Investigator Grade-IV in the pay scale of Rs.5000-8000/- and posted in the office of DGET, Shram Shakti Bhawan, New Delhi by order dated 01.3.2005 and relieved from BPRD.

10. In the aforesaid situation, we direct the respondents to consider the applicant and similarly situated persons in the BPRD, who are working or have worked in the past in the BPRD, to be placed in the upgraded pay scale of Rs. 5000-8000/- w.e.f. 1.1.1996 and pay them consequential benefits upon the upgradation. The respondents will implement this order within three months from the date on which a copy of the order is received.

No costs.


(N.D. Dayal)
Member (A)


(B. Panigrahi)
Chairman

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