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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO.933/2004

New Delhi, this the 3rd day of July, 2006

HON'BLE MR. V.K. MAJOTRA, VICE CHAIRMAN (A)
HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)

1. Prakash Dajiba Meshram
12/4, Sewa Nagar,
Railway Colony, Delhi
2. M.A.A. FARIDI
161/3, railway Colony,
Thomson Road, New Delhi
3. Anil K. Pareek,
158/13, Rly. Colony,
Basant Lane, New Delhi
4. B.K. Gupta,
159/12, Basant Lane,
New Delhi
5. Peter R. Prem,
19-D, Tilak Bridge,
Rly. Col., New Delhi
6. Mrs. Meena Kaushal,
C-7, Basant Lane, New Delhi
7. Mrs. Pushpa Rani,
202-D/4, Basant Lane, New Delhi
8. Narbada Singh,
130/4, Ajmere Gate,
Rly. Colony, New Delhi
9. Mrs. Anita Bhardwaj
201-D/4, Basant Lane,
New Delhi
10. S.J.S. Bajwa,
8/10, Rly. Colony,
Kishan Ganj, Delhi
11. Udai K. Midha
C-1/D, Basant Lane, New Delhi
12. Mrs. Sangita Chakroworty,
200/C-3, Basant Lane,
New Delhi
13. Mrs. Archana Vatsa,
48A, Badli Extn., Delhi-42





14. Nand Lal,
158/12, Basant Lane, New Delhi
 15. Abhinay Kumar Singh,
158/10, Basant Lane, New Delhi
 16. Tarun Kumar Sachedeva,
B-16, Pushpanjali Enclave,
Pitampura, Delhi
 17. Anita Ahuja,
C-3/C, Basant Lawne, New Delhi
 18. Balwan Singh Mehla,
158/16, Basant Lane, New Delhi
 19. Gyan deep Kheeper,
869, Sector-38-A, Chandigarh
 20. Madan Lal,
Q.No.147-A, Railway Colony No.3,
Near Rly. Goods Shed, Amritsar
 21. Kulpreet Singh,
35/2, Sarojini Nagar, New Delhi
 22. Gorkha Ram,
800, DMW Colony, Patiala
 23. Sunall Kumar Koul,
65, Lane No.1A/3,
Guru Nank Nagar, Patiala
 24. Rafique Ahmed,
15/1, Rly. Colony,
Delhi Kishan Ganj, Delhi
 25. P.N. Soni,
E-399, Tagore Garden,
New Delhi
- (By Advocate : Shri G.D. Bhandari)

... APPLICANTS

VERSUS

Union of India, through

1. The General Manager,
Northern Railway,
Baroda House, New Delhi
2. The Secretary,
Railway Board,
Rail Bhawan, New Delhi
3. The Chief Administrative Officer (R),
Diesel Loco Modernization Workshop,
Northern Railway,
Patiala (Pb)

... RESPONDENTS

(By Advocate: Shri A.K. Panda, Sr. Counsel with
Shri A.P. Sahay)

ORDER

By Mukesh Kumar Gupta:

25 applicants in this OA seek following relief:-

- "i) *set-aside and quash the impugned orders dated 26.06.2003, Annexure A-1, whereby the grades and scales of the categories of Lab. Supdt. Gr.I, Gr.II and Gr.III have been reduced to the lower scales and the applicants have been practically reverted from the posts held by them prior to the issue of the impugned orders.*
- ii) *direct/command the Respondents to restore the grades and scales of the Cadre of Lab. Supdts. in terms of Railway Board's orders R.B.E. No.187/98 dated 17.08.1998, Annexure A-5, after implementing and enforcing the standardization of designations orders dated 19.06.1985, Annexure A-2, and further grant the benefits of restructuring orders of the Railway Board, R.B.E. No.177/03 dated 09.10.2003, Annex.A-9, with all consequential benefits of arrears of pay, allowances with 24% p.a. interest from the date of reduction to the date of actual payment.*
- iii) *any other relief deemed fit and proper in the facts and circumstances of the case, may also be granted in addition to the heavy costs against the Respondents and in favour of the applicants, in the interest of justice."*

2. Admitted facts of the case are that applicants were appointed to the cadre of Lab. Superintendent (LS)/Assistant Chemist/Lab. Technician, Pathological Department of Northern Railway. In different zones of Indian Railways, different designations were given to entry grade incumbents, such as Assistant Chemist/Lab. Supdt./Lab. Tech. etc. There was no uniformity in the pattern of designation of posts for a long time and each Railway had been using loose terms, nomenclatures and designations for posts carrying one and the same job responsibilities of carrying out Pathological tests in various Railway Hospitals. Consequent to observations made by 3rd Central Pay Commission, Railway Board issued a Circular dated 19.06.1985 disapproving various loose terms/designations being used, and decided that existing designations of

various categories both of Groups 'C' and 'D' may be replaced by the designations shown in the Annexure appended to said Circular. In place of existing designations, Lab. Supdt./Chemist (Food Analysis)/Asstt. Chemist, revised designations were Lab. Supdt. Gr-I, Lab. Supdt. Gr-II and Lab. Supdt. Gr.III carrying pay scales of Rs.550-900, Rs.425-700 and Rs.380-560 respectively. Para-2 of said Circular specifically stipulated that revised designations were to be adopted without any change in their pay scales, method of recruitment, seniority and avenues of promotion. The existing promotional quota available with the Medical Department was also to remain unchanged. Similarly, para-3 provided that the revised designations of various posts should be strictly enforced. The pay scale of Lab. Supdt. category was reconsidered by the 4th CPC & recommendations made, in turn, accepted by the Railways, were -

Asstt. Chemist/Lab Tech.	Rs.1320-2040
Lab. Supdt. Gr.III	Rs.1320-2040
Chemist	Rs.1400-2300
Lab. Supdt. Gr.II	Rs.1400-2300
Lab. Supdt. Gr.I	Rs.1600-2900

Similarly, replacement pay scales, as recommended by Vth CPC and accepted by the Govt. of India, are as under:

i)	Asstt. Chemist	:	Rs.4500-7000
ii)	Lab. Supdt. Gr.III	:	Rs.5000-8000
iii)	Lab. Supdt. Gr.II	:	Rs.5500-9000
iv)	Lab. Supdt. Gr.I	:	Rs.6500-10500
v)	Chief Lab. Supdt.	:	Rs.7450-11500(New Grade)

3. Railway Board issued revised Railway Service (Revised Pay) Rules, 1997 vide REB No.138/97 dated 16.10.1997. In continuation to aforesaid, Railway Board issued another order dated 16.1.1998 (A/4) whereby the Laboratory Staff (Medical) was placed under serial No.10.8 and divided into two categories namely:

(i) Laboratory Technical/ Assistant Chemists	1320-30-1560-40-2040	4500-125-7000
(ii) Chemist/Laboratory Superintendent Gr.II.	1400-40-1800-50-2300	5000-150-8000

Subsequently, Railway Board also issued circular dated 17.8.1998 (Annexure A-5) whereby with approval of the President, new scales in certain categories as indicated in the Annexure appended thereto were introduced. The number of posts to be operated in the scales provided therein was to be with reference to sanctioned cadre strength as on 01.8.1998. Para-2(g) provided that:

"If any of the scales being introduced are already existing on any of the Railway/Unit, the posts in the same will be adjusted in the cadre structure to be now brought into force as per the revised percentages mentioned herein and total number of posts should not exceed the number of posts as mentioned herein. If prior to issue of this letter, the number of posts existing in any grade in any particular cadre exceeds the number admissible in terms of the revised percentages, the excess may be allowed to continue to be phased out progressively with the vacation of the posts by the existing incumbents."

4. As per Annexure appended to said communication dt. 17.8.1998, categories of Lab. Asstt. and Chemist / Lab. Asstt. were depicted separately. It would be expedient to notice the relevant excerpts of same, which reads as under:-

DEPARTMENT: MEDICAL
CATEGORY: LAB ATTENDANTS

Designation	Pay Scale	%age Existing	Percentage Revised	Remarks	Classification & Procedure for filling up
Lab Attendant III	2610-3450	25	25	Existing	No change
Lab Attendant II	2650-4000	75	65	Existing	No change
Lab Attendant I	2750-4400	-	10	New Scale	Selection

CATEGORY: LAB ASSISTANTS

Lab Attendant II	3200-4900	-	10	Existing	Direct Rectt. Qualifications Matriculation with Science + Diploma in Medical Lab Technology (DMLT); same qualifications for filling up the promotion quota by process of selection from Gr.'D'
Lab Attendant I	4000-6000		15	New Scale	Non-selection with same Qualifications for Direct Recruitment
Lab Technicians/ Asstt. Chemist	4500-7000		75	Existing	-do-

CATEGORY: CHEMIST/LAB. SUPDT.

Lab Supdt.III / Chemist	5000-8000		35	Existing	(1)DR Qualifications:- BSc. with Bio-Chemistry / Micro Biology/Life Science or equivalent & Diploma in Medical Lab Technology course or equivalent from recognized institutions. (2) Serving staff with qualifications prescribed for Direct Recruitment are eligible for promotion in accordance with selection procedure prescribed in the Para 165 (5) of IREM/89 Edition, with relaxation for those in the lower grade of Lab Technician / Asstt. Chemist grade Rs.4500-7000/- on the existing lines.
Lab Supdt.II	5500-9000		45	Existing	No Direct Recruitment in this grade. Selection from amongst staff in lower grade of Rs.5000-8000 with qualification of B.Sc. with Bio-Chemistry / Microbiology / Life Sciences with 5 years service in grade of Rs.5000-8000 as at present.
Lab Supdt.I	6500-10500		15	New	Non-Selection
Chief Lab Supdt.	7450-11500	-	5	New	Non-Selection

5. The aforesaid percentage wise distribution has once again undergone a change vide Board letter no PC/III/2003/CRC/6 dt. 9.10.2003 (A-9). The revised %age is 9,25, 36 & 30 instead of 5,15.45 & 35 respectively as prescribed earlier.

6. The applicant's contention is that consequent upon the aforesaid orders, GM, Southern Railway issued office order dated 03.5.1999 (A-6) and granted replacement scales to all existing staff in the category of Lab. Supdt. w.e.f. 01.8.1998. Immediately thereafter show cause notices were issued to sixteen, out of a total strength of sixty-eight Lab. Supdts., stating that promotion to higher scale granted to them w.e.f. 01.8.1998 was erroneous and the same were being withdrawn. It was further stated therein that incorrect distribution of posts to place in the higher pay scale led to erroneous promotion and, therefore, the promotions were to be rescinded. The representations submitted by them were ignored and the pay scale was withdrawn vide order dated 15.5.2000 and the concerned staff reverted to their old pay scale. Two out of sixteen Lab. Supdt. retired in the meantime and therefore fourteen

officials assailed their reversion order before the Madras Bench of this Tribunal vide OA No.584, 585, 612-621, 652 and 683 of 2000, which were allowed vide common order dated 04.12.2000 and so upheld by the Madras High Court by dismissing Railway's Writ Petitions 13295-13308 of 2001 vide judgment and order dated 11.11.2002.

7. The applicants' contention is that their case is similar and identical to what has been decided by the Madras Bench of this Tribunal. The Railway Board also issued certain clarification vide order dated 26.6.2003 stating that it has come to the notice of the Board that there is no some confusion on some of the Railways in the matter of allotment of higher pay scales to the Laboratory Staff and percentage distribution of posts. With a view to clear such confusion in the Railways and in view of the necessity of implementing Board's instructions in the correct perspective, revised pay and percentage distribution of the various categories of Laboratory Staff in juxtaposition with the corresponding IV CPC pay scales and percentage distribution were detailed for guidance. It further provided that some of the Railways may not be following standard designations, the IV CPC scales of the post, and not the designation alone, should be the criteria for allotting the equivalent revised V CPC pay scale. The relevant excerpts reads as under:-

Designation	IV CPC Scale (Rs.)	% Distribution	Revised Designation	V CPC scale (Rs.)	% Distribution
Lab. Asstt.	975-1540	-	Lab. Asstt.II	3200-4900	10
	-	-	Lab. Asstt.I (New Scale)	4000-6000	15
Lab Supdt. Gr.III/Lab. Tech./Lab. Chemist	1320-2040	20	Lab Tech./Asstt. Chemist	4500-7000	75
Lab. Supdt. Gr.II	1400-2300	30	Lab. Supdt. Gr.III	5000-8000	35
Lab. Supdt. Gr.I	1640-2900	50	Lab. Supdt. Gr.II	5500-9000	45
			Lab Supdt. Gr.I (New Scale)	6500-10500	15
			Chief Lab Supdt. (New Scale)	7450-11500	5

8. The basic grievance of the applicants is that above impugned order in fact amounts to their reversion from the category of Lab Supdt Gr-I, Gr-II, Gr-III carrying the pay scale of Rs. 6500-10,500, 5500-9000 & 5000-8000 to lower scales i.e Rs. 5500-9000, 5000-8000 & 4500-7000 respectively, which is violative of principle of natural justice as no show cause notice was ever issued to them. The term "Grade" has been confused as meaning the pay-scale. Various posts i.e. Lab Supdt Gr-I, Gr-II & Gr-III already existed prior to Railway Board's circular letter dt. 17.8.98 & the only new Grade introduced was of Chief Lab Supdt. in pay-scale of Rs. 7450-11,500. The impugned clarification is in violation of judicial pronouncement of this Tribunal, as upheld by the Madras High Court. It is well settled that a judicial pronouncement cannot be over turned by an administrative order. Prior to Vth CPC, Lab Supdt. Gr-III, Lab. Tech & Lab Chemist were placed in one category carrying the same pay-scale i.e. Rs. 1320-2040. As per revised designation, Lab. Tech as well as Assistant Chemist have been placed together and the class & category of Lab. Supdt. Gr-III has been completely left out. Rather a perusal of clarification issued vide circular dt. 26.6.2003 would show that the said category of Lab. Supdt Gr-II is now given the revised designation of earlier known as Lab. Supdt. Gr-III & allowed pay-scale of Rs. 5000-8000. What happened to earlier Lab. Supdt. Gr-III in the pay-scale of Rs. 1320-2040, is not known. Neither the said category is included in the new % distribution, as revised designation of Lab Supdt. Gr-III- 35%, Lab. Supdt Gr-II- 45%, Lab. Supdt Gr-I(new scale)-15% & Chief Lab. Supdt(new scale)- 5% put together comes to 100%. Earlier the grade of Lab. Supdt. Gr-III, was bracketed with Lab. Tech as well as Lab. Chemist, and put together the said Group constituted 20%. Even if the said percentage is divided equally in three categories i.e Lab. Supdt Gr-III, Lab. Tech and Lab. Chemist, and it is presumed that the latter two

categories have now been bracketed with Lab. Asstt, what happened to the category of Lab. Supdt Gr-III?. Neither percentage wise nor category wise their fate is cleared, contended Ld. Counsel for applicants.

9. The respondents resisted the claim laid stating that pay scales allotted to various categories of employees on the Railways are based on recommendations of Vth CPC, as accepted by the Govt. Consequent to implementation of recommendations of Vth CPC, Railway Board notified revised pay scale vide letter dt. 16.10.1997, followed by subsequent letters dt. 16.1.1998, 17.8.98 & 26.6.2003. The schedule notified under Railway Board's letter dt. 16.10.97 comprises of two parts, Annexure A and B, showing revised scales of pay. Annexure A contains the revised pay scales for posts in Group D, C, B & A except in respect of posts for which revised pay scales are notified separately. Annexure B contains the revised pay scale of specified categories of staff for which a higher than normal replacement pay scales are allotted. In other words, unless separate pay scales are notified for any category of staff, normal/standard-revised pay scales as given in Annexure A are applicable. In case of Laboratory Staff, normal/standard revised pay scales were allowed. As on 16.10.97 no other separate pay scales were notified for this category. However, later on, some specific pay scales were allotted vide Board's letter dated 16.1.98, and further some additional pay scales were allotted indicating percentage distribution vide Board's letter dt. 17.8.98. No higher pay scale had been granted to any category of Lab Superintendents. Though two additional pay scales have been introduced to the said category by revising the percentage of various groups and the designations have also been revised suitably. The designation of erstwhile Lab Supdt. Gr-II & Gr-I in pay scale of Rs. 1400-2300 & 1640-2900 have been re-designated as Lab Supdt. Gr-III & Gr-II in pay-scale of Rs. 5000-8000 & 5500-9000 respectively. Vide

Railway Board's letter dated 16.1.98, Lab Supdt Gr-III has been allowed the revised grade of Rs. 4500-7000. The percentage has been revised for the purpose of up-gradation vide Railway Board's letter dt. 26.6.2003.

10. We have heard Ld. Counsel for both sides at length and perused the pleadings and material placed on records minutely. On bestowing our careful consideration & giving our anxious thought to all aspects of the matter, we find that there is no dispute to the following factual aspects that:

- a) Railways have allowed only replacement pay scale to all categories and groups of officers in Laboratory.
- b) In the cadre of Lab. Supdt., two new categories namely Lab. Supdt Gr-I and Chief Lab. Supdt in pay scales of Rs. 6500-10,500 and 7450-11,500 have been created vide Railway Board's letter dt 17.8.1998. Similarly, the percentage distribution had been revised vis-à-vis the percentage which existed prior to the said date.
- c) Erstwhile Lab Supdt. Gr II & Gr. I has now been re-designated as Lab Supdt Gr.III & Gr. II respectively, though the pay-scales remain the same i.e. no higher pay-scales have been allowed except the normal replacement pay-scales.
- d) Erstwhile Lab. Supdt Gr.III were allowed the revised & normal replacement pay-scale of Rs. 4500-7000 w.e.f. 1.1.1996 & all of them have been promoted to next higher scale of Rs. 5000-8000 after issuance of order dated 17.8.98.

11. As such the basic grievance remains about the treatment of erstwhile Lab Supdt. Gr-III. As neither percentage nor category wise the said category seems to have been aligned with Lab. Suptd. or Lab Asstt.

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On our specific query raised to Ld. Sr Counsel of respondents as to whether this category is to be fitted with Lab. Supdt or Lab Asstt., particularly when we notice that out of three posts i.e. Lab Supdt Gr-III, Lab Tech and Lab Chemist, earlier clubbed together under one Group and forming 20 % of the cadre, after re-designation the said Group included only two categories i.e. Lab Tech and Asstt. Chemist but do not include Lab. Asstt. Gr-III either as a group/category or percentage wise. No specific and satisfactory reply came forth from respondents. Percentage wise, as well as the group wise, when we examined the facts as shown vide clarificatory letter dated 26.6.2003, we find that it, in fact, prima facie created more confusion & such is apparent per-se, which would have needed to be examined by the respondents, but such impression is not correct and justified on closer examination of the facts as stated. A perusal of Annexure A-12, providing details of applicants indicates that none of the applicant who had been initially appointed to erstwhile Lab. Supdt. Grade-III in the pay scale of Rs.1320-2040 remains stagnated in the said scale, which was revised to Rs.4500-7000 w.e.f. 1.1.1996. On the other hand, all of them have been promoted to the next higher scale of Rs. 5000-8000 after the issuance of order dated 17.08.1998. As such what happened to the erstwhile Lab. Supdt. Grade-III is not the concern of the applicant. But in our considered view, that would not be the end of the matter and the Respondents would be well advised to examine and clarify how to deal with the said category, which has now been carved out of Lab. Technician/Lab. Chemist particularly, in the circumstances noticed hereinabove and pass appropriate orders.

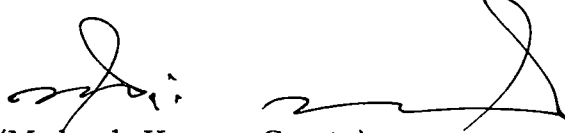
12. However, we do not find substance and justification with the applicants that they have been reverted from the category of Lab. Supdt. We may note that neither there is drop in the pay scale or the total emoluments enjoyed by them nor they have suffered in terms of status

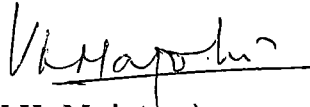
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and promotional avenue. What has been changed is that the post has been re-designated, which cannot be found fault with. We find no force in their further contention that their grievance is covered by the judgment of Madras Bench of the Tribunal. On bestowing our careful & thought consideration, we are of the opinion that the said Order & judgment is distinguishable and inapplicable in the facts & circumstances of the present case as the basic issue considered therein had been about the interpretation and application of Railway Board's letter dt 17.8.98. Moreover promotions allowed to the applicants therein were rescinded by passing individual order dated 15.5.2000, which are not the facts in hand. Similarly, we do not find justification in the applicants' prayer that Respondents be directed to restore the grades and scales in the cadre of Lab. Supdt. in terms of Railway Board's letter dated 17.08.1998. The restructuring order of Railway Board dated 09.10.2003, in fact, are more favourable as the percentage wise distribution give them more promotional avenues in the categories of re-designated Lab. Supdt. Grade-II, Grade-I and Chief Lab. Supdt. The percentage wise distribution to the said categories is now 36, 25 and 9 per cent in comparison to earlier percentage of 45, 15 and 5 respectively.

13. In the ultimate analysis, we find no merits in the applicants' contention. There is no illegality in the order dated 26.6.2003. However, the OA is disposed of in view of the observations made in para-11 above.

No costs.


(Mukesh Kumar Gupta)
Member (J)


(V.K. Majotra)
Vice Chairman (A)

/PKR/