

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 1276 of 1996

Allahabad this the 29th day of October 2001

Hon'ble Mr.S.K.I. Naqvi, Member (J)  
Hon'ble Maj Gen K.K. Srivastava, Member (A)

Smt.Mithilesh Kumari Gupta, Wife of Sri J.P. Gupta,  
F.W.E.E., C.F.S. R/o Mohalla Khwaja Firoz, Shah jahanpur.

Applicant

By Advocate Shri K.C. Saxeena

Versus

1. The Union of India through Secretary, Ministry of Defence, New Delhi.
2. The Chief Controller of Accts. Fys, O.F. Board, Calcutta.
3. The G.M., O.C.F., Shah jahanpur.

Respondents

By Advocate Shri Ashok Mohiley

O R D E R ( Oral )

By Hon'ble Mr.S.K.I. Naqvi, Member (J)

The applicant-Smt.Mithilesh Kumari Gupta

worked at District Hospital, Shah jahanpur during the period from 14.11.1968 to 08.08.1985 and then, on being so selected, she joined on 09.08.1985 as Family Welfare Extension Educator. At the time she left the service at District Hospital, she was drawing basic salary of Rs.440/- in the scale of Rs.300-500, and the pay scale where she joined on 09.08.1985 it was Rs.425-700 and given benefit of her previous service

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and fixing increment, <sup>she</sup> fixed at Rs.455/- per month in the scale of Rs.425-700. In the meantime her pay scale in the previous service was revised from Rs.300-500 to Rs.470-735. As on 08.08.1985 her basic pay was fixed at Rs.718/-after allowing her increments from the date of enforcement of Second Pay Commission. Then she moved her present department for fixation of her basic pay accordingly, but the same was <sup>revised</sup> as per impugned order dated 23.07.1996, according to which her pay has rightly been fixed under CSR Rule 156-A taking her basic pay as Rs.440/- in her previous scale of Rs.300-500. Being aggrieved of this position she has come up before the Tribunal seeking redressal ~~effe~~ to the effect that her pay be refixed initially according to the rules on the basis of last pay drawn in her previous service in U.P. Government on relinquishing the service and joining the new post in Ordnance Clothing Factory in the same <sup>pay as</sup> ~~pay~~ has already done and arrears of pay for last fixation may also be paid and thereafter pay be refixed on 01.1.1986 in the revised scale as per Fourth Pay Commission reported on the basis of pay drawable on 31.12.1995 and arrears on this account may also be paid.

2. The respondents have contested the case filed the counter-reply with the specific mention that applicant-Smt.Mithilesh Kumari Gupta was appointed in Ordnance Clothing Factory,Hospital, Shah jahanpur as Family Welfare Extension Educator w.e.f.09.08.1985 in the pay scale of Rs.425-700 and prior to joining the Ordnance Clothing Factory(for short O.C.F.) Shah jahanpur, the applicant was serving

:: 3 ::

in the District Hospital, Shah jahanpur under State Government, where she rendered service from 14.11.68 to 08.08.85, which has been treated as qualifying service for the purpose of pensionary benefits only. It has further been clarified that prior to her appointment in the ~~Ordnance~~.C.F., Shah jahanpur, Smt.Gupta was drawing Rs.440/- per month as basic pay in the scale of Rs.300-8-340-EB-10-440-EB-12-500, and accordingly on her appointment in the Central Government ~~in the~~ scale of pay Rs.425-15-500-EB-15-560-20-700/-, her pay was fixed at Rs.455/- per month. The State Government revised the pay scale of its employees twice after 01.8.1972 i.e. firstly with effect from 01.08.1972 and then w.e.f. 01.07.1985, and the pay of the applicant was fixed under F.R.22-C with reference to her basic pay only and with these submissions the respondents have pressed that the applicant has no case for re-fixation.

3. Heard at length Shri K.C. Saxena, counsel for the applicant, and Shri Ashok Mohiley counsel for the respondents, and perused the record and the rules cited from either side.

4. We find that when the applicant joined with O.C.F., she was in the scale of Rs.300-500/- in her previous service at District Hospital, Shah jahanpur and the post she joined at Ordnance Clothing Factory was in the scale of Rs.425-700, which apparently is from lower pay scale to a post carrying higher pay scale, but subsequent to it the pay scale in her previous service at District Hospital was revised from Rs.470-735/- and at that time she was serving

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at O.C.F., Shahjahanpur in already revised scale of Rs.425-700/- and thereby she opted a new service in the O.C.F. which carries a lesser pay scale than the revised pay scale in the service she left at District Hospital, Shahjahanpur, and now she wishes that <sup>these</sup> rules shall be applied in her case which provide the benefit to an employee who comes from lower pay scale to higher pay scale. We are afraid that this benefit cannot be made available to her. In short the applicant opted a post carrying lower pay scale from the scale she was drawing in her previous service, cannot get benefit beyond the limits of scale, which she desires to have.

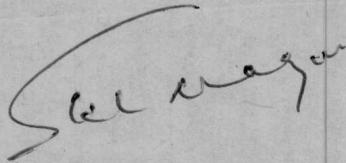
5. Learned counsel for the applicant drew our attention towards the fact that when initially the pay of the applicant was fixed in her present service she was given the benefit of stage of pay she was getting in her previous service and, therefore, it indicates that the present employer acceded the right of fixation and additional increment to the applicant. Keeping in view the submissions, we examined the facts of the case and find that the fixation of pay in the present employment at Rs.425/- was on the basis of her pay scale, she was having in her previous service at District Hospital, which was at Rs.300-500, and that was the lower scale than the present one in the Ordnance Factory, for which this benefit was allowed, but it could not be allowed had it been in the revised scale of Rs.470-735, which the applicant claims at present.

:: 5 ::

6. For the above, we find that the relief sought for cannot be provided. The O.A. is dismissed accordingly. No order as to costs.



Member (A)



Member (J)

/M.M./