

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

O.A.NO. 1006/98

Dated, this the 23rd day of March, 2001.

HON'BLE SHRI S.K.I. NAQVI, MEMBER (J)
HON'BLE SHRI S.A.T. RIZVI, MEMBER (A)

Prahlad Prasad, S/O Late Girija Prasad,
R/O S.13/47A-11A, Teliabagh, Varanasi
employed as Laboratory Technician Post
& Telegraphs dispensary, Varanasi.

..Applicant.

(By Advocate: Sh. R.K.Sinha)

Versus

1. Union of India through
the Secretary, Govt. of India,
M/O Communication, Deptt. of Posts,
New Delhi.
2. The Member Posts Postal Board
Directorate of Posts, Dak Bhawan,
New Delhi.
3. The Senior Post Master Head Post Office
Bisheshwarganj, Varanasi.

...Respondents.

(By Advocate: Shri R.C. Joshi)

O R D E R

By Hon'ble Shri S.A.T. Rizvi, Member (A):

The applicant in this OA who was recruited as Lab Technician and placed in the pay scale of Rs.390-560/- was placed in the higher scale of Rs.1350-2200/- as a result of implementation of the 4th Central Pay Commission's report. His pay was accordingly fixed in the aforesaid scale of Rs. 1350-2200/-. After he had drawn his salary in the aforesaid scale for 11 years, he was placed in the lower pay scale of Rs.1200-2040/- and his pay was reduced from Rs. 1720/- PM to Rs.1530/- PM. This was done by the respondents without any notice to the applicant and without any opportunity being given to him to state his case. Following the implementation of the 5th CPC's recommendations, the applicant has been placed in the pay scale of Rs.4000-6000/- which corresponds to the

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aforesaid lower pay scale of Rs. 1200-2040/- given to him during the currency of the 4th CPC's recommendations. If he had been allowed to continue in the higher pay scale of Rs.1350-2200/-, he would have been placed in the higher scale of Rs.4500-7000/-. Aggrieved by the aforesaid direction of the respondents, the applicant has filed this O.M.

2. Heard the learned counsel on either side and perused the material placed on record.

3. The applicant was appointed as Laboratory Technician in the scale of Rs.330-560/- on 26.7.1983. By respondents' letter dated 7.7.1983, he was appointed to the aforesaid post for P & T Dispensary at Varanasi (Annexure A-2). In the aforesaid letter of 7.7.1983, the applicant has been shown as a member of the Para-medical staff. In order to advance his plea that he was correctly placed in the pay scale of Rs. 1350-2200/-, the applicant has produced a copy of the news paper advertisement by which applications were invited by the respondents for recruitment to the post of Laboratory Technician, Nurse and Pharmacist Group 'C'. The posts of Pharmacist Group 'C' and Lab Technician carried the same pay scale of Rs.330-560/-. Consequent upon the implementation of the 4th CPC, the Pharmacist Group 'C' were placed in the scale of Rs.1350-2200/- and the applicant was also placed in the same scale and continued to remain in the same scale until, as stated, without any notice to him the respondents decided to place him in the lower pay scale of Rs.1200-2040/-. The learned counsel for the applicant has argued that being a member of the Para-medical staff, the applicant was entitled to be treated on par with the Pharmacist Group 'C' and viewed thus, he was rightly placed in the scale of Rs.1350-2200/-.

4. The learned counsel appearing for the applicant has also referred to the recommendations not made by the 5th CPC to highlight the fact that Lab Technicians are required to be placed in the revised scale of 4500-7000/-, whereas he has been actually placed, as pointed out, in the lower pay scale of Rs.4000-6000/-. We have perused the

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Central Civil Services (Revised Pay) Rules, 1997 and find that Part B of the 1st Schedule to the aforesaid rules lays ^{down} revised pay scales in respect of certain common categories of staff. The post of Lab Technician is included in this category. In this category are included those posts in respect of which the revised scales of pay are to be given after the administrative Ministries/Departments concerned ~~have~~ have taken steps to modify the recruitment rules, restructure ~~cadres~~, etc. as necessary in a given situation. The implementation of the revised pay scales under this part is to take effect prospectively, i.e., after the recruitment rules etc. have been modified. Until that happens, the holders of the aforesaid posts are supposed to work in the replacement scales of pay. Insofar as the applicant is concerned, the existing pay scale of the Lab Techn. has been shown as Rs.1320-2040/- under Part 'B' aforesaid. This pay scale corresponds to the replacement pay scale of Rs.4000-6000/- as shown in part 'A' of the aforesaid 1st Schedule. The rule position in respect of Lab. Techn. under the C.C.S. (Revised Pay) Rules, 1997 relating to the recommendations of the 4th CPC has not been placed before us. We are, therefore, unable to convince ourselves that the pay scale of Rs.1350-2200/- was wrongly given to the applicant. The applicant's claim that being a para-medical staff, he was entitled to be placed in the pay scale of 1350-2200/-, cannot, therefore, be denied keeping in view the fact that, as already pointed out, the Lab Techn. are required to be placed in the revised scale of Rs.4500-7000/- which is the replacement scale of Rs.1350-2200/- as shown in Part 1 of the 1st Schedule to the aforesaid Rules of 1997. In the extract relating to the 4th CPC's recommendations enclosed with respondents' letter dated 1.10.1997 placed on record by the respondents, it has been shown that the pay scale of Rs.330-560/- applicable to Radiographer, X-Ray Technicians and Pharmacists has been revised to Rs.1350-2200/- and these posts have been shown as part of the para-medical staff. This position further strengthens the claim of the

applicant and we find it difficult to believe the respondents' version that the pay scale of Rs.1350-2200/- was incorrectly fixed. The judgement/order of the C.A.T. referred to in the respondents' aforesaid letter of 1.10.1997 has not been made available and in the absence of this information, we are not able to satisfy ourselves that the applicant has been given the reduced pay scale of Rs.1200-2040/- in pursuance of the judgement/order of this Tribunal. As already stated, we are not able to reach a firm conclusion in this regard. Notwithstanding this position, we are sure that the post of Lab Techn. is in any case required to be placed in the scale of 4500-7000/- which is the scale claimed by the applicant. The respondents are required to modify the recruitment rules and take such other steps as might ^{be} necessary before the aforesaid revised pay scale of Rs.4500-7000/- is granted to Lab Techns. We cannot be sure, however, that with the qualifications and the experience possessed by the applicant, he would be placed ultimately in the revised pay scale of Rs.4500-7000/-. We thus find that until the administrative Ministry / Department concerned has taken ^a final view in this regard in accordance with the provisions made in ^a part 'B' of the 1st Schedule to the aforesaid Rules of 1997, it should not have been necessary for the respondents to reduce the applicant's pay scale from 1350-2200/- to 1200-2040/-. The matter could be decided at the appropriate time and in due course after a decision on the revision of the Lab Technicians' pay scale ~~of~~ to Rs.4500-7000/- had been taken.

5. In the facts and circumstances outlined in the preceding paragraphs, we have reached the conclusion that if the pay scale earlier given to the applicant was at all required to be reduced, the respondents should have first issued a notice to the applicant to show cause in the matter, and a decision should have been taken only after giving reasonable opportunity to the applicant to state his case. This has not been done in circumstances which do not clearly indicate that the

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the respondents have taken the right decision in the matter. The decision taken by the respondents to reduce the pay scale of the applicant from Rs.1350-2200/- to Rs.1200-2040/- is, therefore, quashed and set aside. His pay will be restored to Rs.1720/- PM with effect from the date from which it was reduced to Rs.1530/- PM and the applicant will be entitled to consequential benefits. The respondents are given liberty to issue a notice to the applicant and allow him full opportunity to state his case before the matter is decided. In the event of the order to be passed by the respondents being adverse to the applicant, the respondents will pass a speaking and a reasoned order having regard to the points raised in the present OA and to such other material, the applicant might place before the respondents during the course of personal hearing. The respondents are also directed to take a decision for placing the Lab Technicians in the revised scale of Rs.4500-7000/- as expeditiously as possible and in any event within a period of three months from the date of receipt of a copy of this order.

6. The aforesaid directions regarding restoration of pay scale in favour of the applicant will be complied with in a maximum period of one month from the date of receipt of a copy of this order.

7. The present OA is disposed of in the aforesated terms. No costs.

SKR
(S.A.T. Rizvi)
Member (A)

/sunil/

S.K.I.N.
23.03.2001.
(S.K.I.Naqvi)
Member (J)