

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Original Application No.746 of 2000.

Allahabad this the 16 th day of March 2004.

Hon'ble Mr. Justice S.R. Singh, V.C.
Hon'ble Mr. D.R. Tiwari, A.M.

Dr. Bimalesh Chandra Mishra,
S/o Late D.P. Mishra,
R/o 109/76-A, Nehru Nagar, Kanpur.

.....Applicant.

(By Advocate : Sri A Trivedi)

Versus.

1. Union of India
through its Secretary,
Ministry of Defence,
Department of Defence Production and Supplies,
Director General Quality Assurance, Delhi Head
Quarter, P.O. New Delhi.
2. The Director General of Quality Assurance,
Department of Defence Production Govt. of
India, Ministry of Defence (Delhi Head Quarter),
New Delhi.
3. The Controller,
Controllerate of Quality Assurance (Materials)
Post Box No.229, Kanpur-208004.

.....Respondents.

(By Advocates : Sri Ashok Mohiley/
Sri J.N. Sharma)

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(By Hon'ble Mr. Justice S.R. Singh, V.C.)

Heard Sri Mohan Yadav learned counsel for the
applicant, Sri Ashok Mohiley learned counsel for the
respondents and perused the records.

2. The applicant who is working as Scientific Assistant,
Grade II (S.A.-II) in the office of Controllerate of
Quality Assurance (Materials), Kanpur under the Control
of Director General of Quality Assurance, Department of
Defence Production, Govt. of India Ministry of Defence
(Delhi Head Quarter), New Delhi, staked his claim by
means of a representation for parity in the pay scale of

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Veterinary Officers | Surgeons. Representation filed by the applicant in this regard came to be rejected vide impugned order dated 04.09.1996 which reads as under:-

"REVISION OF PAY SCALE : Shri BC Misra, JSA-1

Reference (i) Your representation dated 29 Mar 96
(ii) DGQA HQ letter No.A/99772/GEN/DGQA/ADM (7B) dated 21 Aug. 96.

I am directed to inform you that your representation under reference at (i) above has been examined in consultation with the Ministry of Defence. The extract of the DGQA HQ letter under reference (ii) above is given below for your information:

"It has been confirmed by Ministry of Defence that the recommendations of the IV pay Commission referred to by the individual in his application relate specifically to the veterinary officers in the Min of Agriculture & Rural Development, Health and Family Welfare, Home Environment etc which have separate cadre of veterinary officers. So far as the DGQA concerned, there is no such separate cadre of Veterinary officers comprising of veterinary surgeon/Asstt. Surgeons etc. As the individual is holding the rank of JSA-1, the recommendation of Pay Commission with reference to a different cadre can not be made applicable in the instant case."

(Ram Prasad)
Senior Admn. Officer
for Controller"

3. It appears that the applicant preferred further representation for self reliefs. By order dated 25.05.2000 which is also impugned herein, representation dated 31.03.2000 was returned to the applicant on the premiss that the decision has already been communicated to him vide letter dated 21.08.1996 and 11.03.1997 and the position in this regard has not undergone any change. Both these orders are the subject matter of impugnment in this O.A.

4. Sri Mohan Yadav learned counsel for the applicant has urged that recommendation made in favour of the applicant by the Controller in the light of decision taken in the meeting of Anomaly Committee held on 26.03.1998 was not taken into reckoning by the Competent Authority while passing the order dated 23.05.2000 and hence the said order is

(Signature)

vitiated by error of law. Learned counsel for the applicant placed reliance on the above recommendation dated 01.08.88 in which on comparison of duties and responsibilities of the applicant and those of Veterinary Assistant/Surgeons at Central Research Institute Kasauli, it was opined that their duties and responsibilities were with very much similar and hence the applicant be considered for grant of the scale of Rs.2200-4000 (pre-revised). Learned counsel for the applicant has further placed reliance on paragraph No.11.94 of IVth Central Pay Commission in support of his contention.

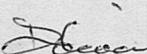
5. Sri Ashok Mohiley learned counsel for the respondents in reply has submitted that recommendation of IVth Central Pay Commission pertains to personnel appointed as 'Veterinary Officer/Assistant Veterinary Surgeons' with Degree in Veterinary Science working in the Ministry of Agricultural & Rural Development, Health & Family Welfare, Home, Environment & Forests, while the applicant has been appointed to the post of Junior Scientific Assistant in Director General of Quality Assurance Organisation under Ministry of Defence where no such post has been recommended by IVth Pay Commission have no relevance.

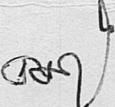
6. Sri Ashok Mohiley learned counsel for the respondents has placed reliance on the recommendation of Vth Central Pay Commission, the relevant portion of which has been annexed as Annexure CA-3. According to the paragraph from 63.264 to 63.262 different pay structure has been recommended for Senior Technical Assistants, Defence Quality Assurance Organisation headed by Director General Quality Assurance functions under the Department of Defence Production & Supplies Ministry of Defence. We are of the view that applicant having been appointed in the said organisation can not claim parity with the Veterinary Officers/Surgeons

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in the Ministry of Agricultural & Rural Development, Health & Family Welfare, Home Environment & Forest etc. It cannot be gain-said that the pay fixation is essentially an executive function and scope of judicial interference is very much limited. It is true that recommendation made by Controller on the basis of Anomaly Committee report was not taken into reckoning and representations dated 31.02.2000 was returned to the applicant by Controller, in the light of the earlier decision dated 21.08.1996 and 11.03.1997, but in view of what we have stated above, the applicant had no right to make repeated representations nor was he entitled to seek fixation of pay at par with the Veterinary Surgeons working in the Ministry of Agriculture & Rural Development, Health and Family Welfare, Home Environment & Forest etc.

8. Accordingly the O.A. fails and is dismissed with no order as to costs.


Member-A.


Vice-Chairman.

Manish/-