

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD
ORIGINAL APPLICATION NO.964/2002

WEDNESDAY, THIS THE 18TH DAY OF SEPTEMBER, 2002

HON'BLE MAJ GEN K.K. SRIVASTAVA, A.M.
HON'BLE MR. A.K. BHATNAGAR, J.M.

Surendra Kumar Yadav, aged about
46 years, S/o Late Shri C.L. Yadav,
R/o 182/156, Madhwapur, Allahabad. ... Applicant

(By Advocate Shri Rakesh Verma)

Versus

1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. The Director General of Ordnance Services, Master General of Ordnance Branch (O-S-8-C), Army Headquarter, D.H.Q. New Delhi-110011-
3. The Office Incharge, Army Ordnance Corps (Records), Post Bag No.3, Trimulgherry, Secunderabad-500015.
4. The Commandant, Central Ordnance Depot, Chheoki, Naini, Allahabad. ... Respondents

(By Advocate R.C. Joshi)

O R D E R

BY HON'BLE MAJ GEN K.K. SRIVASTAVA, MEMBER-A

In this O.A, filed under section 19 of Administrative Tribunals Act, 1985, the applicant has ~~has~~ prayed for quashing the impugned order dated 18.05.01 passed by respondent no. 2 (Annexure A-1) and order dated 29.08.01 passed by respondent no.4 (Annexure A-2).

2. The facts of the case, in short, giving rise to this O.A. are that the applicant was appointed as Compounder Hospital Grade-II on 31.12.1979 in the pay scale of Rs.330-560/- at Central Ordnance Depot (COD), Cheoki, Naini, Allahabad under the respondent no.4. As per the



recommendation of the IV pay commission the pay scale of Rs.330-560 was revised to that of Rs.1350-2200. The applicant was denied this scale and was given the scale of Rs.1200-2040 though initially the scale of Rs.1350-2200 had been given. The respondents ordered for recovery for the excess payment to him. The applicant filed O.A. No.1385/93 which was decided by this Tribunal on 25.04.94 with direction to the applicant to file a representation to be decided by the respondents. The applicant represented on 22.07.94 followed by number of representations, last being that of 22.05.00. This representation of the applicant has been decided by the impugned order dated 18.05.01 and his request for grant of pay scale of Rs.1350-2200 has not been accepted. The applicant has also been informed that the Army Head Quarter^h has not ~~been~~ accepted the request of the individual for grant of pay scale of Rs.1350-2200. Hence this O.A. which has been contested by the respondents.

3. Shri Rakesh Verma, learned counsel for the applicant submitted that the respondents have not decided the issue of the applicant with open mind. The very fact that the pay scale of Rs.330-560 for which the applicant was appointed, was revised to Rs.1350-2200 on the recommendation of IV pay Commission, there is no reason to reject the claim of the applicant. The only reason for rejecting the same is that in the IV Pay Commission recommendations under part 7 Para Medical Staff Sl. No.1, the pay scale of Rs.330-560 has been revised in respect of Radiographers/X-Ray Technicians/Pharmacists. Since the applicant was appointed as Compaunder Hospital Grade-II, the respondents have not accepted his

claim.

4. Learned counsel for the applicant has further submitted that the pay scale of Rs.1350-2200 has been revised to that of Rs.4500-7000 by V Pay Commission from 01.01.1996. This scale has been granted by the respondents to the applicant whereas the scale applicable to Pharmacists as per the recommendation of IV Pay Commission has been denied.

5. Contesting the claim of the applicant Shri G. R. Gupta, learned counsel for the respondents submitted that the applicant was appointed as Compounder Hospital and not as Pharmacist. Therefore, the action of the respondents in rejecting the claim of the applicant for the pay scale of Rs.1350-2200 as recommended by IV Pay Commission, is justified and does not warrant ^{any} intervention by the Tribunal.

6. We have heard learned counsel for the parties, carefully considered their submissions and closely perused the records.

7. Admittedly the applicant was appointed in the scale of Rs.330-560. The designation of the applicant was Compounder Hospital Grade-II. We have perused Annexure No.8 which is appendix to C.P.R.O. # 46/76 regarding revision of pay on the recommendation of III Pay Commission at Srl.70-P number of categories has been given as Compounder/Compounder Hospital/Compounder and Dispensary (Qualified). The scale of Rs.130-240 which was existing earlier was revised to that of Rs. 330-560. The orders of the revised scale as recommended by IV Pay Commission have been annexed as Annexure A-9 under the caption Para Medical Staff. We find that the scale of

Rs.330-560 has been revised to that of Rs.1350-2200. In the said schedule we do not find ^{anywhere} ~~any~~ name of Compounder/Compounder Hospital has been mentioned under Para Medical Staff. Therefore, the natural ⁱⁿ ~~corollary~~ ⁱⁿ is that the applicant is entitled to the revised scale in respect of his erstwhile scale. The applicant earlier to IV Pay Commission was appointed in the scale of Rs.330-560 and, therefore, on recommendation of IV Pay Commission he is fully entitled for the scale of Rs.1350-2200. The action of the respondents in denying the same cannot be sustained in the eyes of law and the impugned orders are liable to be quashed.

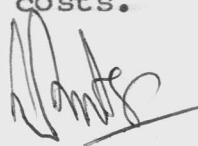
8. We would also like to observe that the pay scale of Rs. 1350-2200 has been revised to that of Rs.4500-7000 w.e.f. 01.01.1996 as per the recommendation of V Pay Commission. The respondents have very correctly given this scale to the applicant. We fail to understand as to what ⁱⁿ ~~prohibits~~ ⁱⁿ or restrains the respondents not to grant the scale of Rs.1350-2200 to the applicant before the revised scale came into force on 01.01.1996.

9. In the facts and circumstances, and our aforesaid observations the O.A. is Allowed. Impugned orders dated 18.05.2001 (Annexure A-1) and 29.08.01 (Annexure A-2) are quashed. The respondents are directed to ^{in grant} place the applicant ⁱⁿ ~~on~~ the scale of Rs.1350-2200 from the date of revision of the scale as per the recommendation of IV Pay Commission i.e. 01.01.1986 to 31.12.1995. The arrears thereof and also amounts, if any, recovered shall be paid to the applicant within a period of four months from the date

of communication of this order.

10. There will be no order as to costs.


Member-J


Member-A

/Neelam/