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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 499 Of 1992
Cuttack, this the 16th day of Octoer, 2001

Suryanarayan Praharaj

Applicant

Vrs.

Union of India and others

Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? Yes.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN
16.10.2001

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 499 OF 1992

*Corrected vide
order Dt.18.1.2002.

Cuttack, this the 16th day of October, ~~1999~~ *2001

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND

HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

.....
Suryanarayan Praharaj, , son of Shri Bhabagrahi
Praharaj, Junior Technician, office of the Regional
Director for Health & Family Welfare, Bhubaneswar, 140
Saheednagar, Bhubaneswar, Dist.Puri.

..... Applicant

Advocate for applicant - Mr.Samir Kumar Mishra

vrs.

1. Union of India, represented by the Secretary,
Finance Ministry, Department of Expenditure, New
Delhi.
2. Secretary, Health Ministry, Government of India,
representing the Central Government of India,
At/PO-Nirman Bhawan, New Delhi.
3. Director General of Health Services, Nirman Bhawan,
New Delhi.
4. Director, National Malaria Eradication Programme,
22, Sharnath Marg, Delhi-54.

..... Respondents

Advocate for respondents - Mr.A.K.Bose
Sr.CGSC

ORDER

SOMNATH SOM, VICE-CHAIRMAN

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In this O.A. the petitioner has prayed
for a direction to the respondents to grant him the
scale of Rs.1350-2200/- or at least the scale
of Rs.1200-2040/- with effect from 1.1.1986 on the
principle of equal pay for equal work.

2.The case of the applicant is that he



is working as Junior Technician in the office of Regional Director, Health & Family Welfare, Bhubaneswar, from 19.1.1984 in the scale of Rs.260-430/-. The applicant has stated that at the time of his initial recruitment, the minimum qualification for the post of Junior Technician was Matriculation. The applicant was a B.Sc. The applicant has stated that the Regional Director, Health & Family Welfare, Bhubaneswar, is under Director General of Health Services under whom there is a Directorate of National Malaria Eradication Programme having 17 Regional Directors. In the National Malaria Eradication Programme (hereinafter referred to as "NMEP"), there are posts of Junior Technician and as per the report of the Third Pay Commission the minimum qualification of Junior Technician was raised from Matriculation to B.Sc. It is stated that even though the minimum qualification had been raised for Junior Technician in NMEP, the increased qualification and the nature of work of technical staff of NMEP including Junior Technician were not placed before the Fourth Pay Commission who granted the replacement scale of Rs.975-1540/- with effect from 1.1.1986. The applicant has stated that Laboratory Assistants in various Departments of Government of India have the qualification of I.Sc. and all the technical staff under the Directorate General of Health Services with Matriculation qualification are getting higher scale of pay as per the Fourth Pay Commission report. The applicant has given a tabular statement indicating how in Railway, Defence and Directorate of Marketing &



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Inspection the Laboratory Assistants having I.Sc. and B.Sc. as minimum educational qualification are getting the scale of Rs.1200-2040/- and Rs.1400-2300/-. The applicant has further stated that Director General of Health Services in his letter dated 23.3.1988 has constituted a Cadre Review Committee and has invited suggestion. The Secretary of All India Malaria Workers Association, Bhubaneswar Branch, submitted a representation on 24.1.1996 to raise the pay scale of technical staff of NMEP including the pay scale of Junior Technician. As in spite of repeated representations, the respondents did not grant the higher scale of pay to the applicant, the petitioner filed OA No. 282 of 1989 which was disposed of in order dated 3.4.1991 directing that the matter should be considered as expeditiously as possible latest within four months from the date of receipt of copy of the order. It was further directed that if the applicant still feels aggrieved with the decision of the Government, he will be at liberty to approach the Tribunal. As no orders were received, the applicant filed C.P.No.5 of 1992 and in the counter dated 18.2.1992 it was mentioned that the representation has been rejected in letter dated 27.7.1992 (Annexure-7). The applicant has stated that the representation for increasing the scale of pay of Junior Technician has been rejected without considering the relevant facts, and in the context of the above, he has come up in this petition with the prayer referred to earlier.



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3. The respondents have filed counter opposing the prayer of the applicant, and the applicant has filed rejoinder reiterating his prayer. It is not necessary to refer to all the averments made by the respondents in their counter and the applicant in his rejoinder because these will be taken note of while considering the submissions made by the learned counsel of both sides. We have heard Shri S.K.Mishra, the learned counsel for the petitioner and Shri A.K.Bose, the learned Senior Standing Counsel for the respondents and have also perused the record. The learned counsel for the petitioner has filed written note of submission which has also been perused.

4. The applicant has stated and the respondents have not denied that at the time of initial recruitment of the applicant the minimum qualification for the post of Junior Technician was Matriculation. The applicant has stated that this was subsequently raised by the Third Pay Commission to B.Sc. The respondents have stated in their counter that according to the rules the educational qualification for Junior Technician is B.Sc. It is also the admitted position that the applicant was recruited prior to coming into force of the Fourth Pay Commission pay scale of pay. The replacement scale for the scale of Rs.260-430/- according to the Fourth Pay Commission recommendation accepted by the Government is Rs.975-1540/-. The applicant has stated that even though in the case of NMEP also the minimum qualification for the post of Junior Technician was increased from Matriculation to B.Sc. , the increase in

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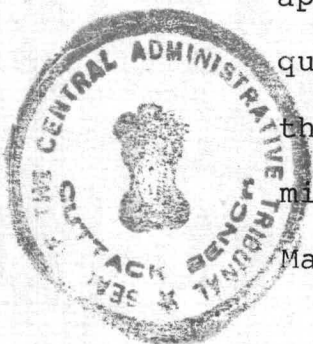
the qualification and the nature of work performed by Junior Technician were inadvertently not placed before the Fourth Pay Commission. This averment has been contested by the respondents. The respondents have pointed out in their counter that five persons senior to the applicant working at Bangalore in the cadre of Junior Technician had approached Bangalore Bench of the Tribunal for getting the same scale of pay as Senior Technician. The order of the Bangalore Bench has been enclosed by the respondents at Annexure-R/1. In this order the Tribunal have mentioned in paragraph 4 that a representation was made by the applicants therein who were Junior Technician like the applicant before us on 14.11.1983 to the Member-Secretary, Central Fourth Pay Commission, New Delhi. Another representation dated 1.2.1985 was addressed to the Chairman, Central Fourth Pay Commission. From this it is clear that the contention of the applicant that the increased entry qualification and the nature of work of Junior Technician was not inadvertently placed before the Fourth Pay Commission cannot be accepted. It is clear that the Fourth Pay Commission had before them the representations from Junior Technicians in which they must have mentioned about increase in their entry qualification and their nature of work. So conclusion is irresistible that taking into account their higher qualification and nature of work, the Fourth Pay Commission had recommended the scale of Rs.975-1540/-. This contention of the learned counsel for the petitioner is accordingly rejected.



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5. It is also to be noted that according to the written note of submission the minimum qualification was increased from Matriculation to B.Sc. on 22.10.1980. This Recruitment Rule has been enclosed by the respondents at Annexure-R/3. Thus, the contention of the applicant that at the time of his appointment as Junior Technician, the minimum qualification was Matriculation cannot be accepted, as the applicant was appointed on 19.1.1984 and the minimum qualification had been increased from Matriculation to B.Sc. in October 1980.



6. The second argument of the learned counsel for the petitioner is that in the Recruitment Rules of 1980, Junior Technicians have been equated with Laboratory Assistants. As a matter of fact, Laboratory Assistants and Junior Technicians come under the same serial no.13 in the schedule to the Recruitment Rules. It is stated that Laboratory Assistants in other Departments like Railways, Defence and Directorate of Marketing & Inspection have been given the higher scale of Rs.1200-2040/- and Rs.1400-2300/-. It is stated that even in the Directorate General of Health Services, Technicians (Occupational Therapy) who were getting pre-revised scale of Rs.260-430/- have been granted the scale of Rs.1200-2040/- and in the context of the above the applicant has stated that on the principle of equal pay for equal work he should at least be given the scale of Rs.1200-2040/-. Law is well settled that job evaluation taking into account the nature of work, the responsibilities and the technicalities involved is to

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done by expert bodies, and the Tribunal cannot take up job evaluation nor have they necessary expertise for the same. In the instant case, it is clear that the increased qualification and the nature of work of Junior Technical were placed before the Fourth Pay Commission through the memoranda referred to in the order of the Bangalore Bench of the Tribunal and taking that into account the Fourth Pay Commission had recommended the scale of Rs.975-1540/-. We also do not have before us the nature of work done in the Laboratories of the Railways, Ministry of Defence and Directorate of Marketing and Inspection and therefore, it cannot be held that merely going by the designation of Laboratory Assistant or Technician, the applicant is entitled to the higher scale of pay. This contention is also held to be without any merit and is rejected.

7. The third contention of the learned counsel for the petitioner is that Director General, Health Services, had appointed a Cadre Review Committee and the Director, NMEP in his letter dated 3.6.1992 of (Annexure-6 of the O.A.) had recommended the scale of Rs.1400-2300/- for Junior Technician, Laboratory Assistant and Sr.Technician, etc. It is submitted by the learned counsel for the petitioner that in view of the recommendation made by the Director, NMEP himself for granting the scale of Rs.1400-2300/- to Junior Technician and Laboratory Assistants, it is not open for the respondents to justify granting of the lower scale of Rs.975-1540/-. This contention is without any merit because the letter at Annexure-6 is merely a recommendation and before taking a view on this, the



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Government have to take note of its repercussion on other Departments and any other services, and in the order at Annexure-7 the Government have decided to follow the recommendation of the Fourth Pay Commission. This contention is, therefore, held to be without any merit.

8. In course of hearing we had enquired as to what has been the recommendation of the Fifth pay Commission with regard to Junior Technician and the Government decision thereon. The learned counsel for the petitioners in his written note of submission has indicated the recommendation of the Fifth Pay Commission, but from this the clear picture does not emerge. In any case, on the basis of granting of higher scale by the Fifth Pay Commission, the applicant cannot claim that he should get higher scale from 1.1.1986. This argument is also accordingly rejected.

9. In the result, therefore, we hold that the application is without any merit and the same is rejected but without any order as to costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

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(SOMNATH SOM)
16.10.2001
VICE-CHAIRMAN

AN/PS

