

Central Administrative Tribunal, Mumbai Bench

OA 417/2000

Mumbai this the 25th day of June, 2001

Hon'ble Mr. Kuldip Singh, Member (J)
Hon'ble Mrs. Shanta Shatry, Member (A)

1. M.S.I. Patel
2. R.R. Vernekar
3. R.L. Pandey
4. S.L. Fernandes
5. P.T. Mahamuni
6. M.R. Gaikwad
7. B.V. Pawar
8. S.V. Patil
9. R.S. Sahane
10. V.K. Soni
11. V.S. Oval
12. S.N. Mehendale
13. S.J. Bhosale
14. A.K. Nangia
15. S. Ramachandran
16. V.A. Joshi
17. K.A. Bhosale
18. K.K. Bhujbal
19. Mrs. Neeta Meltallu
20. S.M. Pawar
21. J.S. Awale ...Applicants

All the above applicants are working as Demonstrators
at the National Defence Academy Khadakwasla, Poona

By Advocate: Shri S.P. Saxena

Versus

1. Union of India through the Secretary,
Ministry of Defence,
New Delhi-110 011.
 2. The Director General of Military Engineering,
Army Headquarters,
New Delhi-110 011.
- /s/

3. The Commandant,
National Defence Academy,
Khadakwasla.
Pune-411 023. ..Respondents

By Advocate: Shri R.R. Shetty for Sh. R.K. Shetty.

ORDER

Hon'ble Mr. Kuldip Singh, Member (J)

This is a joint application filed by 21 applicants who are working as Demonstrators in the National Defence Academy (hereinafter referred to as NDA) Khadakwasla, Poona-23. They are aggrieved because of the inaction on the part of the respondents as they are not revising their pay in the revised UGC scale of pay for Demonstrators w.e.f. 1.1.1996 although the Government has already accepted the revised UGC scales of pay for all the teaching faculty members in all Universities and Colleges. The pre-revised scale of pay of Demonstrator was Rs.1700-3000 before 1.1.1996 and the revised scale of pay is Rs.5500-175-9000. The applicants claims that they are entitled to get their basic pay fixed in the above revised pay scale w.e.f. 1.1.1996.

2. The applicants further claim that they had been appointed as Demonstrators on regular basis against permanent posts on different dates and earlier they were being given the Government scale of pay of Rs.1240-2040 but the Demonstrators in NDA and ACC Dehradun were held to be teaching staff as the Central Administrative Tribunal, Allahabad Bench granted them UGC scale of pay of Rs.1740-3000 w.e.f. 1.1.1986. The Government had preferred an appeal by way of an SLP before the Hon'ble

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Supreme court but the said SLP was rejected. Thus the Demonstrators of NDA like their counter-parts in ACC Dehradun became entitled for pay fixation in the above said UGC scale of pay w.e.f. 1.1.1986, but despite that the NDA authorities did not extend UGC pay scale to the Demonstrators of the NDA. Then the applicants approached the CAT, Mumbai Bench. An OA was filed by the Demonstrators of NDA that their pay be fixed in the UGC scale of Rs.1740-3000 and the said OA was allowed and the respondents then revised the pay of Demonstrators of NDA in the said scale.

3. After the recommendations of the 5th Pay Commission was accepted by the Central Government, the scales of pay of teaching staff, including the Tutors/Demonstrators etc. were revised vide their letter dated 27.7.98 which was further modified by another letter dated 6.11.1998 which is at Exhibit Annexure A-2 and A-3 and thereafter the applicants approached respondent No.3 for grant of scale as accepted by the UGC but their pay has not been revised as a result all the applicants are still receiving pay in the old pay scale of Rs.1740-3000 so it is prayed that a direction be issued to the respondents to revise the pay scale of the applicants.

4. The respondents are contesting the OA. The respondents allege that the applicants are Demonstrators who are seeking parity in the pay scale with the Demonstrators under the UGC but they have not compared their individual responsibilities, qualifications etc. nor they have submitted that their posts are identical or

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not and hence no case has been made out for grant of UGC scale. Rather the respondents submit that the grant of UGC pay scale has been rejected vide Anneuxre R-1.

5. The respondents further say that as per the Recruitment Rules a Demonstrator in the NDA is at par with ^{those with} Diploma in Mechanical and Electrical Engineering, with one year's teaching experience. It is also stated that the Demonstrators working in the NDA are Group 'C' employees under the Ministry of Defence and like all other central Government employees, are governed by CCS(CCA) Rules for their service conditions and are being paid from the Defence Estimates. NDA in no way is supported or governed by the UGC or Ministry of HRD so the pay scale of NDA cannot be compared with their counter-parts Demonstrators of UGC. Thus it is stated that the OA has no merits and the same be dismissed.

6. We have heard the learned counsel for the parties and gone through the records of the case.

7. At the outset we may mention that this OA is in a second round of litigation between the parties as earlier OA Nos. 1049/96 and 113/97 ~~were~~ filed by certain Demonstrators who were working at NDA and at that time they had a grievance that their pay scales instead of Rs.1320-2040 should be fixed in the pay scale of Rs.1740-3000 as recommended by the UGC for all the Demonstrators and following the judgment of the Allahabad Bench of the Tribunal in OA 537/89 the court allowed the OA^s and the court directed that whatever is applicable to the Demonstrators of the ACC should automatically apply

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to the Demonstrators of NDA. Thus as regards the comparison part of the Demonstrators of the NDA and ACC and Demonstrators of other teaching institutions are concerned, to that extent the matter has been finally adjudicated upon by the Allahabad Bench in OA 537/89 and Mumbai Bench in OA Nos. 1049/96 and 113/97. The question of comparison of these Demonstrators who are governed by the UGC is no longer resintigra and their status with regard to the entitlement of UGC pay scale already stands determined and finally adjudicated upon.

8. Now the only question which survives in this OA is that when after the recommendation of the 5th Pay Commission has been accepted, then why the pay scales of the applicants have not been revised in accordance with the recommendations of the UGC.


9. The counsel for the respondents Shri Shetty submitted that in case if the applicants are brought at par with the Demonstrators who are regularly on teaching staff of the UGC then the applicants shall have to be given a pay scale as they have claimed but the said pay scale would be higher than what their seniors are getting and as such anomalous situation would arise. Besides that it is also pleaded that their qualifications are not equivalent to those of Demonstrators of teaching bodies governed under the UGC so on this account also revision of pay scales as recommended by the 5th Pay Commission for UGC Demonstrators, cannot be made applicable to the applicants.

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10. To our mind, this contention, as raised by the learned counsel for the respondents is concerned, we find that the same has no merits because in principle it has already been decided that the Demonstrators of the NDA and ACC are equivalent to the Demonstrators of the teaching bodies who are governed under the UGC so whatever the pay scales are being given to the Demonstrators governed under the UGC, the applicants also become~~d~~ entitled to the same so long as the applicants had been treated at par with them before the 5th Pay Commission. So now the department cannot deny the applicants the same pay scale. The department is also unable to point out that if 5th Pay Commission has recommended any separate scales for the Demonstrators of NDA and ACC and besides we may also mention that the recommendations of the 5th Pay Commission had been accepted quite long back and applicants are still being paid the same scale which ~~was~~ being paid to them before the recommendations of the 5th Pay Commission was accepted, so their pay scales have not been revised even after the acceptance of the 5th Pay Commission. So to that extent also we find that the respondents have failed to take any action to give a pay revision to the applicants after the 5th Pay Commission, may be independent of the UGC scales and since the Allahabad Bench as well as the Mumbai Bench had already held that the Demonstrators of the NDA and ACC are entitled to get the pay scale which the Demonstrators of UGC are getting, so we think this OA also deserves to be allowed.

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11. In view of the above, OA is allowed. The respondents are directed to revise the pay of the applicants at par with the pay scales of Demonstrators of the UGC w.e.f. 1.1.1996 from the date when the recommendations of the 5th Pay commission had become applicable within a period of 2 months from the date of receipt of a copy of this order. No costs.


(Mrs. Shanta Shastry)
Member (A)


(Kuldip Singh)
Member (J)

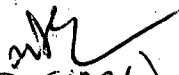
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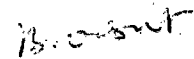
4) 22/2/2002.

Ms. Neelima Gohad, Ld.
counsel for applicant.

Shri R.R. Shetty for the
Respondents.

The counsel for Respondents
has brought to our notice ^{that} certain
income-tax deductions are to be
made in accordance with law
which can be done by 28/2/2002.
Without expressing any opinion
on the dates, we adjourn the
case to 8/3/2002.


(M.P. Singh)
M(A)


(B. Dikshit)
V.C.

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Shri S.P. Saxena, Counsel for
Applicant. Shri R.R. Shetty,
Counsel for Respondents.
Counsel for Respondents
submits that the order has
been fully complied with.
Counsel for applicant also
accepts this position.
As the judgment stands
implemented, we do not
consider it necessary to
issue any further notice in
this matter. Proceedings are
dropped and notice to Respondent
No. 2 is discharged. CP is
dismissed. CP is
disposed of accordingly.
Shri R.R. Shetty
(B. Dikshit)
M(A) V.C.