

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA NO.49/2001.

Dated: this 19th day of June, 2003.

HON'BLE MR. JASBIR S. DHALIWAL, MEMBER (J)
HON'BLE MR. S.K. MALHOTRA, MEMBER (A)

Subhash Moreshwar Nagaonkar
Room no. 12, Medical Colony
Dadra Nagar Haveli
Silvassa-396 230.

...Applicant.

(By Advocate: Sh. I.J. Naik)

Versus

1. The Administrator of U.T.
of Dadra and Nagar Haveli
Administrator's Secretariat
P.O. SILVASSA-396 230.

2. Collector
Dadra and Nagar Haveli
P.O. Silvassa-396 230.

3. Union of India through
Secretary, Ministry of Home Affairs
Central Secretariat, North Block
New Delhi.

...Respondents.

(By Advocate: Sh. V.S. Masurkar)

O R D E R

SHRI S.K. MALHOTRA, MEMBER (A)

This OA has been filed by the applicant with a prayer to direct the respondents to extend the same higher pay scale of Rs. 4500-7000 to him which pay scale is being paid to other Cinema Projectionists as against the pay scale of Rs. 4000-6000 being drawn by him.

2. The facts of the case, in brief, are that applicant was appointed as a Projectionist under the Administration of Dadra and Nagar Haveli in February, 1971. His pay w.e.f. 1.1.86 was in the scale of Rs. 1200-2040 as per the recommendations of 4th Central Pay Commission's Report. It has been pleaded by applicant that while other Projectionists serving under Union of India have been given the revised pay scale of Rs.

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4500-7000, the applicant has been granted pay scale of Rs. 4000-6000 under 5th Central Pay Commission Report. He has also stated that even those Cinema Projectionists who were in the lower pay scale (Rs. 1200-1800) than the applicant, have also been given the higher scale of Rs. 4500-7000. Thus, there has been discrimination against him and he has prayed that the same pay scale of Rs. 4500-7000 as has been given to other Projectionists in the Govt. of India departments, may be granted to him also.

3. Respondents have filed a written statement in which they have stated that there is no anomaly in the equation of the pay scale of the post of Cinema Projectionists under the Respondent Department and that he has rightly been placed in the scale of Rs. 4000-6000 in accordance with the recommendations of the 5th Pay Commission given in para 55.230. They have accepted that applicant's pay scale w.e.f. 1.1.86 was Rs. 1200-2040 as per 4th Central Pay Commission and the pay scale of Rs. 4000-6000 granted to him w.e.f. 1.1.96 is in accordance with the 5th Central Pay Commission recommendations given in Part A of First Schedule to CCS (Revised Pay) Rules, 1997. Para 55.231 of the 5th Central Pay Commission states that the Projectionists have been broadly placed in the scales of Rs. 950-1500, Rs. 1200-2040, Rs. 1350-2200 and Rs. 1400-2300, which vary according to the functional requirements of each organisation. In para 55.232, the 5th Central Pay Commission has recommended that standard grade structure may be replaced in organisation with correspondingly large scale of Projectionists. Wherever, there are isolated posts of Projectionists, the ACP Scheme may be made applicable within the frame work of the standard

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grade structure. It has further been stated by the respondents that the posts of Projectionist having pay scale of Rs. 4500-7000 with which the applicant wants to be equated are with Ministry of Defence which scale is not applicable to the applicant.

4. We have heard Shri I.J. Naik, learned counsel for the applicant and Shri V.S. Masurkar, advocate appearing on behalf of the respondents.

5. Learned counsel for the applicant stated that the applicant has been discriminated against by the respondents, as Projectionists in other departments are getting scale of Rs. 4500-7000. He also mentioned that the replacement scale of Rs. 1200-1800 in respect of Cinema Projectionists in A.G's Branch and also in Armed Forces Medical Services is Rs. 4500-7000. It will, therefore, be unfair to deny this scale to the applicant who is also working as a Projectionist. In this connection, he cited a judgement of Hon'ble Supreme Court in the case of Ajay Jadhav Vs. Government of Goa, reported in 1999(2) SC SLJ 342 in which directions were given to pay to the appellant the same pay scale as given to other diploma holders.

6. Learned counsel for the respondents, during arguments, brought to our notice Part 'A' of the First Schedule of CCS (RP) Rules, 1997 in which the revised scales have been indicated. He pointed out that the three scales of Rs. 1200-1800, Rs. 1200-2040 and Rs. 1320-2040 were all merged by the 5th Central Pay Commission and the revised scale of Rs. 4000-6000 was granted. The applicant was earlier in the scale of Rs. 1200-2040 against which the replacement scale as given in the above schedule is Rs. 4000-6000 which has been given to him. He also stated that the post of Cinema

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Projectionist is a solitary post in Dadra and Nagar Haveli and he has rightly been given the grade of Rs. 4000-6000 as recommended by the 5th Central Pay Commission. The pay scale of Rs. 4500-7000 given to certain Projectionists in other departments has been allowed by the Govt. taking into consideration the functional requirements of the department / Organisation. It will, therefore, not be in order for the applicant to equate his post with the post in other departments which may have different set of responsibilities and functional requirements.

7. During the course of arguments, the learned counsel also brought to our notice the recommendation made by the Administration of Dadra and Nagar Haveli, recommending a revised scale of Rs. 4500-7000 for Projectionists working in Medical and Public Health Department. This recommendation was made in 1999 to the Union Ministry of Health and Family Welfare. He did not have any information whether this recommendation was ultimately accepted by the Ministry or not. No comparison could, therefore, be drawn. The applicant can not also draw a parallel with the case of Ajay Jhadav (supra) cited above, as the functional requirement of the post of the applicant are different from those in other Departments. Considering the facts and circumstances of the case, we are of the view that the applicant has rightly been given the revised scale of Rs. 4000-6000 which is the replacement scale in the 5th Central Pay Commission for the earlier grade of Rs. 1200-2040 in which he has been working.

8. Besides the above, it is now a well settled law that the Tribunal/Courts are not supposed to interfere with the scales of pay granted to certain category of

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post/staff based on the recommendations of the Pay Commission. It is neither the function of the Tribunal/Courts nor they have the expertise to determine the pay scales in which a particular category of staff should be placed. The responsibility and expertise for this work lies with expert bodies like Pay Commission and the Tribunal should refrain from giving any directions for revision in the pay scale already approved by Government based on the recommendations of such expert bodies.

9. In view of the foregoing, we are of the considered opinion that the applicant is rightly placed in the scale of pay of Rs.4000-6000 which is in accordance with the recommendations of the Fifth Central Pay Commission. There is therefore, no merit in the OA and the same is accordingly dismissed.

No order as to costs.

Malhotra
(S.K. MALHOTRA) 19/6/03
MEMBER (A)

Jasbir
JASBIR S. DHALIWAL
MEMBER (J)

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