

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No: 267/98

Date of Decision: 11.6.1999

Shri Jangam Anant Amrutaling

Applicant.

Shri Suresh Kumar.

Advocate for  
Applicant.

Versus

Union of India and others.

Respondent(s)

Shri G.K. Neelkanth.

Advocate for  
Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G.Vaidyanatha, Vice Chairman

Hon'ble Shri. D.S. Baweja, Member (A)

(1) To be referred to the Reporter or not? *no*

(2) Whether it needs to be circulated to  
other Benches of the Tribunal? *no*

*R.G. Vaidyanatha*

(R.G. Vaidyanatha)  
Vice Chairman

NS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH 'GULESTAN' BUILDING NO:6  
PRESCOT ROAD, MUMBAI:1

Original Application No. 267/98

Friday the 11th day of June 1999.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman  
Hon'ble Shri D.S. Baweja, Member (A)

Jangam Anant Amrutaling  
C-202 OM Anand,  
Tilak Nagar,  
Near Tilak Nagar School,  
Dombivli (East)  
Thane.

... Applicant.

By Advocate Shri Suresh Kumar.

V/s.

Union of India through  
Secretary, Ministry of  
Health & Family Welfare  
Nirman Bhavan,  
New Delhi.

Director General  
Directorate General  
of Health Services,  
Nirman Bhavan,  
New Delhi.

Director,  
All India Institute  
of Physical Medicine and  
Rehabilitation,  
Haji Ali Park  
Haji Ali, Mumbai.

... Respondents.

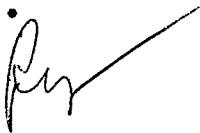
By Advocate Shri G.K. Neelkanth.

ORDER (ORAL)

{ Per Shri Justice R.G.Vaidyantha, Vice Chairman }

This is an application challenging the decision of the administration in re-fixing the pay of the applicant as per orders dated 7.4.1997, 6.5.1997 and 25.3.1998. The respondents have filed reply opposing the application. We have heard both sides. The point involved is short, therefore, we are disposing the O.A. at the admission stage.

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2. The applicant who is working as Laboratory Technician Assistant was initially fixed in the pay scale of Rs. 1400- 2300. Now by virtue of impugned order the applicant's pay has been re-fixed with effect from 1.1.86 in the scale of Rs. 1320-30-1560-EB-40-2040 and memo has been issued to recover the amount. Being agrieved by these orders the applicant has approached this Tribunal. Applicant's contention is that original salary fixed was right and the impugned order is wrong in re-fixing the pay in lower scale.


3. The respondents have justified their action taken and it is stated that by virtue of the impugned order the applicant's pay has been correctly fixed.

4. It is seen from the pleadings that after implementation of 4th Pay Commission Report with effect from 1.1.1986, the applicant's pay was fixed in the pay scale of Rs. 1400 - 2300. Now after a lapse of nearly 11 years the department wants to re-fix the pay of the applicant in lower scale. When the applicant has enjoyed pay in the re-fixed pay scale from 1.1.1986, even if there is mistake on the part of the administration, the department should not have unilaterally revised the pay of the applicant without hearing him. If the impugned orders are implemented then the applicant will have to re-pay the amount received in the last 11 or 12 years. In such a case Principles of Natural Justice is required to be followed. The administration should have issued show cause notice to the applicant and after hearing him they should have passed the order. Hence without expressing any opinion on the merits of the case, we feel that in the interests of justice the impugned order should be quashed with



liberty to the administration to issue show cause notice to the applicant on the basis of which they want to re-fix the pay of the applicant and asking him for his explanation and then applicant can give a reply and on that basis the administration can pass appropriate order.

5. In the result the O.A. is disposed of at the admission stage. The three impugned orders dated 7.4.1997, 6.5.1997 and 25.3.1998 are hereby quashed. Liberty to the administration to issue show cause notice to the applicant about the intended re-fixation of his pay with effect from 1.1.1986 and intended action for recovery of the amount and calling upon the applicant's explanation and representation and on receipt of the representation the administration can pass any order as they deem fit as per Rules. All contentions on merits are left open. Needless to say that if any adverse order is passed, it is open to the applicant to challenge the same according to law. No order as to costs.

  
(D.S. Bawajha)  
Member

  
(R.G. Vaidyanatha)  
Vice Chairman

NS