

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 07.4.1999

OA 407/98

Smt. Kusum George, Laboratory Technician, P&T Dispensary No.2, Tilak Nagar, Jaipur.

... Applicant

Versus

1. Union of India through Secretary, Deptt. of Posts, Ministry of Communications, Sanchar Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Sr. Supdt. of Post Offices, Jaipur City Postal Division, Jaipur.
4. Post Master, Jawahar Nagar Head Post Office, Jaipur.

... Respondents

CORAM:

HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

For the Applicant

... Mr. C. B. Sharma

For the Respondents

... Mr. K. N. Shrimal

O R D E R

PER HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

Applicant, Smt. Kusum George, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for a direction to the respondents to fix her pay in the scale of Rs.4500-7000 or Rs.5000-8000 on the basis of the recommendations of the Fifth Central Pay Commission.

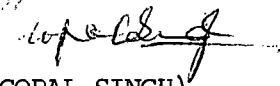
2. Heard the learned counsel for the parties. Records of the case have been carefully perused.

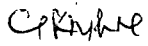
3. Applicant's case is that she was allowed to work as Laboratory Technician against a vacant post on 1.4.1982. Later, she was appointed to the said post in the scale of Rs.1350-2200 by an order dated 6.4.1989 vide Annexure A-3. She had been working ever since then and drawing her pay in the said scale without any interruption. The corresponding scale on the implementation of the report of the Fifth Central Pay Commission to the aforesaid scale is Rs.4500-7000. The respondents have, however, fixed her pay in the scale of Rs.4000-6000 w.e.f. 1.1.1996 and they also propose recovery of excess payment made to her from the date of her appointment till 31.12.1995. The contention of the respondents is that the initial appointment given to her in the scale of Rs.1350-2200 was a mistake on their part and in fact she was entitled for the salary in the scale of Rs.1200-2040. It has been submitted by the learned counsel for the

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applicant that the respondents proposed to recover a sum of Rs.40000/- from the applicant without giving an opportunity to her to defend her case. It is borne out by the record that no show-cause notice or an opportunity of hearing was afforded to the applicant before reducing her pay and before proposing recovery. The impugned action of the respondents is, therefore, violative of the provisions contained in Article 14 of the Constitution.

4. In the circumstances, reducing the pay of the applicant by the impugned action of the respondents is unwarranted and is, therefore, set aside. The respondents are directed to pass a fresh order regarding the applicant's pay and emoluments after affording an opportunity of hearing to her or serving a show-cause notice and giving an opportunity to the applicant to make a representation thereon. The OA stands disposed of accordingly with no order as to costs.


(GOPAL SINGH)
ADM.MEMBER


(GOPAL KRISHNA)
VICE CHAIRMAN

VK