

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of order : 17/8/2001

O.A. No. 141/99

1. Ashok Kumar Agarwal, son of Shri Hira Lal Agarwal, resident of E-3A, Shanker Marg, Bani Park, Jaipur.
2. Kanhaiya Singh son of Shri Chanda Ram, resident of 708, Purani Basti, Yagyashala Ki Babri, Jaipur.

Presently posted as Mechanical Engineer (Sr), Engineering & Transport Div., Geological Survey of India, A-27, Kanti Chandra Road, Bani Park, Jaipur - 302 006.

... Applicants.

versus

1. Union of India through the Secretary, Ministry of Finance, North Block, New Delhi - 110 001.
2. The Secretary, Ministry of Mines, Shastri Bhawan, New Delhi.
3. The Director General, Geological Survey of India, 27, J.L.N. Road, Calcutta - 16.
4. Head of Office, E&T Div. W.R., Geological Survey of India, A-27, Kanti Chandra Road, Bani Park, Jaipur - 302 006.

... Respondents.

Applicants present in person.

Mr. Sita Ram Sharma, Departmental Representative, appeared on behalf of the respondents.

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman

Hon'ble Mr. Gopal Singh, Administrative Member

: O R D E R :

(Per Hon'ble Mr. Justice B.S. Raikote)

This application is filed by Shri Ashok Kumar Agarwal and Shri Kanhaiya Singh, under Section 19 of the Administrative Tribunals Act,



1985. The applicants have prayed for the following reliefs:-

- 8.1. That the respondents may be directed to allow revised and approved impugned pay scale Rs. 12000-375-16500) Non Functional JAG in the Senior Time Scale w.e.f. 01.01.1996 to the applicants.
- 8.2. Give directions to the respondents to pay all arrears of pay/ allowances etc. w.e.f. 01.01.96 to the applicants.
- 8.3. Grant all consequential reliefs and benefits and pass any other appropriate order/direction as may be deemed fit according to the facts and circumstances of the case in favour of the applicants.
- 8.4. Award cost in favour of the applicants and against the respondents."

2. The contention of the applicants is that in terms of Para 50.45 of the Vth Central Pay Commission Report, accepted by the Government, they should have been granted the scale of Rs. 12000-16500. As on the date of the Report of the Vth Central Pay Commission, though they were in the pay scale of Rs. 3000-4500 (equated to Rs. 10000-15000) as Senior Mechanical Engineers in Geological Survey of India, yet they are entitled to the pay scale of Rs. 3700-5000 (equated to Rs. 12000-16500) on par to equivalent posts in other departments.

3. Similar questions had come up before this Tribunal in OA No. 550/99 (C.P. Dusad vs. Union of India) and O.A. No. 27/2000 (Jaswant Singh vs. Union of India), and this Tribunal vide judgement and order dated 27.07.2001 dismissed those applications by holding that prescribing pay scales for different posts of similar nature is a specialised job done by the specialised agency, like Pay Commission, and this Tribunal cannot reassess the matter and then come to a conclusion as to which pay scale a particular category of officers should be



entitled, on the basis of analogies. Admittedly, the applicants were holding the pay scale of Rs. 3000-4500 as on the date of recommendations, and the Vth Pay Commission nowhere recommended grant of upgraded pay scale to the Engineers of the Geological Survey of India. We think it appropriate to extract the relevant part of the said judgement, as under:-

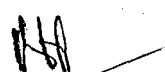
"..... It would be seen from above that the grant of upgraded scale as mentioned in this extract was subject to fulfilment of specific conditions. These conditions relate to normal changes in recruitment rules, restructuring in cadres, re-distribution of posts into higher grades etc. Therefore, in those cases where conditions such as changes in recruitment rules which was brought out by the Pay Commission as the rationale for the grant of these upgraded scales, it will be necessary for the Ministries to decide upon such issues and agree to the changes suggested by the Pay Commission before applying these scales to these posts w.e.f. 1.1.1996. In certain other cases, where there are conditions prescribed by the Pay Commission as pre-requisite for grant of these scales to certain posts such as cadre restructuring, re-distribution of posts etc., it will be necessary for the Ministries/ Departments concerned to not only accept these pre-conditions, but also to implement them before the scale are applied to those posts. It would, thus be seen that the upgraded scale was not to be provided automatically. We have also gone through the detailed examination of the problem of the Department of Geological Survey of India as done by the Vth Central Pay Commission in Chapter 76 of their report. They have, inter alia, suggested merger of cadres Drilling and Mechanical into one service and the recruitment to these services be made through the Union Public Service Commission. The Vth Central Pay Commission has not recommended any upgraded scale for the Engineering Officers holding the pay scale of Rs. 3700-5000 in the Geological Survey of India. Thus we are of the view that the applicants holding the post in the scale of Rs. 3700-5000 in the Geological Survey of India would normally not be entitled to the upgraded pay scale of Rs. 14300-18300 unless a specific and conscious decision is taken by the Ministry in this regard. Further, it is pointed out that the established law on the subject is that prescribing pay scales for different posts of similar nature is a specialised job done by the

specialised agency like Pay Commission and the Tribunal cannot interfere in such matters, because prescribing similar pay scales to two different posts needs detailed examination of the nature of the posts, nature of duties and responsibilities of the two posts etc. and this type of examination is done only by the specialised agency like the Pay Commission. It has been pointed out above, the Vth Central Pay Commission has nowhere recommended grant of upgraded pay scales to the Engineers of the Geological Survey of India holding the pay scale Rs. 3700-5000. Thus, we find it difficult to interfere in the matter. Accordingly, we pass the order as under:-

Both the OAs are dismissed with no order as to costs."

4. Applicants in this case also belong to Geological Survey of India, and they are similarly situated persons to the O.A. No. 550/99 and OA No. 27/2000, and the prayer also is similar. ~~xxexamex~~ If that is so, the subject matter in the present O.A. also stands covered by the judgement of this Tribunal dated 27.07.2001 passed in OA No. 550/99 and in OA No. 27/2000. By following the said judgement, we think it appropriate to dismiss this O.A. also.

5. However, the applicants have brought to our notice the O.M. No. 22/1/2000-CRD, dated 6.6.2000 issued by the G.I., Department of Personnel & Training, and contended that on the basis of this O.M., the applicant would be entitled to the pay scale of Rs. 12000-16500 (Revised Pay) as non-functional JAG Executive Engineer. They also invited our attention to the clarifications/modifications to the order dated 6.6.2000 vide G.I., Department of Personnel & Training, O.M. No. 22/1/2000-CRD dated 20.12.2000, and contended that since they fulfil the conditions prescribed in these two OMs above, the applicants would be entitled to the pay scale of Rs. 3700-5000 (equivalent to Rs. 12000-16500). If the applicants feel that they are entitled to the pay scale at Rs. 12000-16500 in terms of these OMs, it is now open for them to



file a representation in the light of these two OMs.

6. For the above reasons, we pass the order as under:-

"The O.A. is hereby dismissed. It is open for the applicants to file representations to the respondents in terms of O.M. No. 22/1/2000-CRD dated 6.6.2000 and O.M. No. 22/1/2000-CRD dated 20.12.2000. For that purpose, the applicants are granted one month's time, and if the applicants file such representations, the respondents shall consider the same within a period of three months thereafter. No costs."

Gopal Singh

(GOPAL SINGH)
Adm. Member

BSR

(JUSTICE B.S. RAIKOTE)
Vice Chairman

cvr.