

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 27 July, 2001

OA No.550/99

C.P.Dusad s/o Shri R.P.Dusad at present working as Director (Drilling) Selection Grade(Non-functional) Geological Survey of India, Western Region, Jaipur r/o 608, Jat Ka Kuwa ka Rasta, Chandpole Bazar, Jaipur

OA No.27/2000

Jaswant Singh s/o Shri Lahori Singh r/o E-153, Ramesh Marg, C-Scheme, Jaipur at present working as Director (ME) Geological Survey of India, Eastern Region, Calcutta.

...Applicants

Versus

1. The Union of India through the Secretary to Government of India, Ministry of Mines, Department of Geological Survey of India, Shastri Bhawan, New Delhi.

.. Respondent

Mr. Man Singh Gupta, counsel for the applicants

Mr. Hemant Gupta, proxy counsel to Mr. N.C.Goyal, counsel for the respondent

CORAM:

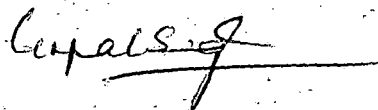
Hon'ble Mr. A.K.Mishra, Judicial Member

Hon'ble Mr. Gopal Singh, Administrative Member

ORDER

Per Hon'ble Mr. Gopal Singh, Administrative Member

The controversy involved in both these applications is same and the relief sought is also the same, therefore, both the applications are being disposed of by this common order.



2. Applicant in OA No.550/99 was initially recruited as Assistant Drilling Engineer through the Union Public Service Commission on the basis of Combined Engineering Service Examination, 1971 and he is presently working on the post of Director (Drilling) w.e.f. 28.8.1991 in the pay scale of Rs. 3700-5000. Applicant in OA No.27/2000 was recruited as Mechanical Engineer through Union Public Service Commission on the basis of Combined Engineering Service Examination, 1972 and is presently working as Director (Mechanical Engineering) in the pay scale of Rs. 3700-5000 w.e.f. 22.5.1992. Both the applicants contend that they should have been fixed in the upgraded pay scale of Rs. 14300-18300 w.e.f. 1.1.1996 as per the recommendations of the Fifth Central Pay Commission whereas their salary has been fixed by the respondent Department in the scale of Rs. 12000-16500. Both the applicants had earlier approached this Tribunal vide OA Nos. 142/99 and 158/99. Both the applications were decided on 24.6.99 with a direction to the respondents to consider the representations of the applicants by a detailed speaking order. Representations of the applicants have been rejected by the respondents vide their order dated 5.10.1999 (Ann.A1). Hence, these applications.

3. Contention of the applicants is that in terms of Para 50.45 of the 5th Central Pay Commission report, accepted by the Government, they should have been granted the scale of Rs. 14300-18300.

4. In the counter, it has been stated by the respondents that the normal replacement scale of the scale of Rs. 3700-5000 is Rs. 12000-16500 and the pay of the applicants have been rightly fixed in the pay scale of Rs. 12000-16500. They have also made out a distinction between the Engineers working in the Geological Survey of

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India and in other major Departments like CPWD etc. and contended that provisions of Para 50.45 would not be applicable to the Engineers working in the Geological Survey of India. It has also been pointed out by the respondents that the applicants are not functioning as Superintending Engineers and, therefore, they cannot derive any benefit from Para 50.45 of the recommendations of 5th Central Pay Commission. It has, therefore, been averred by the respondents that the applications are devoid of any merit and deserve to be dismissed.

5. We have heard the learned counsel for the parties and perused the record of the case carefully.

6. The learned counsel for the applicants also brought to our notice certain extracts from the Gazette of India dealing with revised pay scales for certain combined categories of staff filed at Ann.A2 wherein the replacement scale ~~for~~ Rs. 3700-5000 has been indicated as 14300-18300. We consider it necessary at this stage to extract below the opening paragraph of the Gazette of India dealing with revised pay scales for certain combined categories of staff:-

THE GAZETTE OF INDIA : EXTRAORDINARY

PART- B

REVISED PAY SCALES FOR CERTAIN COMMON CATEGORIES OF STAFF

The revised scales of pay mentioned in Column 4 of this part of the Notification for the posts mentioned in Column 2 have been approved by the Government. However, it may be noted that in certain cases of the scales of pay mentioned in Column 4, the recommendations of the Pay Commission are subject to fulfilment of specific conditions. These conditions relate inter alia to changes in recruitment rules, restructuring of cadres, re-distribution of posts into higher grades etc.

Amal K. Ghosh

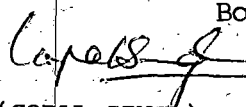
Therefore, in those cases where conditions such as changes in recruitment rules etc. which are brought out by the Pay Commission as the rationale for the grant of these upgraded scales, it will be necessary for the Ministries to decide upon such issues and agree to the changes suggested by the Pay Commission before applying these scales to these posts w.e.f. 1.1.96. 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, redistribution of posts etc. It will be necessary for the Ministries/Department concerned to not only accept these preconditions but also to implement them before the scales are applied to those posts. It would, therefore, be seen that it is implicit in the recommendations of the Pay Commission that such scales necessarily have to take prospective effect and the concerned posts will be governed by the normal replacement scale until then."

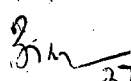
It would be seen from above that the grant of upgraded scale as mentioned in this extract was subject to fulfilment of specific conditions. These conditions relate to normal changes in recruitment rules, restructuring in cadres, re-distribution of posts into higher grades etc. Therefore, in those cases 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

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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 problems of the Department of Geological Survey of India as done by the 5th Central Pay Commission in Chapter 76 of their report. They have, inter alia, suggested merger of cadres of the Drilling and Mechanical into one service and recruitment to these services be made through the Union Public Service Commission. The 5th 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 posts 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 5th Central Pay Commission has nowhere recommended grant of upgraded pay scale to the Engineers of the Geological Survey of India holding the pay scale of 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.


(GOPAL SINGH)
Adm. Member


(A.K. MISHRA)
Judl. Member