

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A/T.A No. 324/2006

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SECTION OFFICER (Judl.)

31/X/17

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:**

ORDERSHEET

1. Original Application No. 324/06
2. Miscellaneous Petition No.
3. Contempt Petition No.
4. Review Application No.

Applicant(S) Sushil Kr. Kar VS Union of India & Ors

Advocate for the Applicant(S) M. Chandra, S. Nath
Ms. U. Dutta

Advocate for the Respondant Shri. Case. Ms. U. Das

Notes of the Registry	Date	Order of the Tribunal
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Original application is in form
is filed/C.F. for Rs 50/-
deposited vide P.D.
No. 286934804
Dated 26.12.06

11.1.2007

Mr.M.Chanda, learned counsel for the
Applicant wanted to file a condonation
petition for condoning the delay in filing
O.A. Let it be done after two weeks.

Post on 25.01.2007

Vice-Chairman

/bb/

25.1.2007

Mrs. M. Das, learned Addl. C.G.S.C.
would like to obtain instruction and file
reply statement in the matter. Let it be
done.

Post on 27.2.2007.

Vice-Chairman

/bb/

Rs 5/- Paid for
respondent No.6.

Received for,
Mrs. M. Das e.aise
Shri. M. Ch. Das
5/2/07

27.2.07.

Four weeks time is granted to the counsel for the respondents to file written statement. Post the matter on 28.3.07.

No Wks has been filed.

el
Member

L
Vice-Chairman

27.3.07.

lm

28.3.2007

Post on 24.4.2007 along with the M.P..

23-4-07

⑦ No Wks has been filed.

L
Vice-Chairman

/bb/

24.4.07.

Mr. S. Nath learned counsel for the applicant is present. Mrs. M. Das learned Addl.C.G.S.C for the respondents has prayed for time to file written statement. Four weeks' time is granted to file written statement. Post the matter on 28.5.07.

No Wks has been filed.

25.5.07.

8
Member(A)

Guanyam
Member(J)

lm

28.5.07

List this OA

No Wks has been filed.

on 15.6.07 along with MA 9/07.

14.6.07

V
Vice-Chairman

15.6.07. At the request of learned counsel for the respondents further six weeks time is granted to the respondents to file written statement. Post the matter on 18.7.07.

Vice-Chairman

lm

18.7.2007

On request, Mrs.M.Das, learned Addl.C.G.S.C. is granted further three weeks time to file reply statement.

Post on 9.8.2007.

Vice-Chairman

/bb/

30.8.2007

As requested, Mrs.M.Das, learned Addl.C.G.S.C. is granted further three weeks time to file reply statement.

Post the case on 20.9.2007.

Vice-Chairman

/bb/

20.9.07

Considering the issue involved in this case O.A is admitted. Two weeks time is granted to the respondents to file written statement.

Post on 3.10.07 for order.

Vice-Chairman

pg

17-7-07

No W/S filed so far.
lm

29.8.07

No W/S filed so far.
lm

W/S not filed.

19.9.07.

W/S not filed.

1.10.07.

03.10.2007

Reply to the Original Application has been filed today after serving a copy on the learned counsel for the Applicant, who seeks four weeks time to file rejoinder.

Call this matter on 08.11.2007 awaiting rejoinder from the Applicant. Mr. G. Baishya, learned Sr. Standing counsel for the Union of India should also produce the departmental proceeding file by the next date.

wrongly typed
B.R.

Copy of this order be handed over to Mr. G. Baishya, learned Sr. Standing counsel.

(Khushiram)
Member (A)

(M.R. Mohanty)
Vice-Chairman

/bb/

03.10.2007

Written statement has been filed, after serving a copy on the learned counsel for the Applicant. Rejoinder, if any, will be filed by the next date.

Call this matter on 12.11.2007 awaiting rejoinder from the Applicant.

(Khushiram)
Member (A)

(M.R. Mohanty)
Vice-Chairman

/bb/

4.10.07

W/S filed by
the Respondents.
Copy not served.

[Signature]

Rejoinder not filed.

8.11.07.

12.11.2007

Mr.S.Nath, learned counsel for the Applicant is present. Mrs.M.Das, learned Addl. Standing counsel for the Union of India is present and undertakes to file her appearance memo in this case by tomorrow. No rejoinder has been filed in this case as yet.

Call this matter on 12.12.2007 expecting rejoinder from the Applicant.

Rejoinder not filed.

11.12.07.

(M.R.Mohanty)
Vice-Chairman

/bb/

12.12.2007

No rejoinder has been filed in this case as yet.

Call this matter 17.01.2008 awaiting rejoinder from the Applicant.

Rejoinder not filed.

16.1.08.

(Gautam Ray)
Member (A)

(M.R.Mohanty)
Vice-Chairman

/bb/

17.01.2008

Mrs.U.Dutta, learned counsel appearing for the Applicant, seeks two weeks more time to file rejoinder. Mrs. Manjula Das, learned Addl. Standing counsel for the Union of India, points out that for the reason of interim order passed in this case, recovery of the amount unlawfully paid to the Applicant, could not be made.

Dt. 17.1.08 -
Pl. comply.

In the aforesaid premises, call this matter on 22.02.2008 for hearing/final disposal of the case.

In the meantime, the Applicant may file the rejoinder, as desired, by 8th of February, 2008.

Interim order, passed earlier, to remain in force till the next date.

Member (A)

Vice-Chairman

bb

Order dt. 17/01/08

Sent to D/Section for issuing to learned advocate's for both the parties.

18/1/08. D/Nb-285,286
dt. 21/1/08.

22.02.2008 .

Call this matter on 03.04.2008.

W/s filed

21.2.08

lm

(Khushiram)
Member (A)

03.04.2008

Call this matter on 26.5.2008 for
hearing.

Rejoinder not filed.

23.5.08

lm

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

26.05.2008

Heard Mr M. Chanda, learned
Counsel appearing for the Applicant and
Mrs M. Das, learned Addl. Standing
Counsel for the Union of India and perused
the materials on record. Hearing
concluded. Orders reserved.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

Received copy
for Mrs M. Das,
Addl. Secy.

Karnal Bura
17.6.08

11.06.2008

Judgment pronounced in open Court.

Kept in separate sheets. Application is
dismissed. No costs.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

lm

19.6.08

Copy of the
judgment sent to the
D/Sec. for filing
in line to the
parties on 2/7/08
for the applicant
etc

15.1.09

19.06.08

Hand note D/Sec.
2938 to 2944 D/236.08
etc

B

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

.....

Original Application No.324 of 2006.

DATE OF DECISION : 11 -06 -2008

Shri Sushil Kumar Kar

.....Applicant/s

By Advocate Mr M. Chanda

.....Advocate for the
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s


Mrs. M. Das, Addl.C.G.S.C.,

.....Advocate for the
Respondent/s

CORAM

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN
HON'BLE MR.KHUSHIRAM, ADMINISTRATIVE MEMBER

1. Whether reporters of local newspapers may be allowed to see the judgment ? Yes/~~No~~
2. Whether to be referred to the Reporter or not ? Yes/~~No~~
3. Whether their Lordships wish to see the fair copy of the judgment ? Yes/~~No~~.


Vice-Chairman/Member

9

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 324/2006.

Date of Order : This the 11th Day of June, 2008.

THE HON'BLE MR MANORANJAN MOHANTY, VICE CHAIRMAN

THE HON'BLE MR KHUSHIRAM, ADMINISTRATIVE MEMBER

**Shri Sushil Kumar Kar,
Laboratory Technician,
P&T Dispensary, Itkhola,
P.O. Silchar 788001.
District Cachar (Assam)**

.....Applicant

By Advocate Mr M. Chanda.

- Versus -

**1. Union of India
represented through the Secretary,
Govt. of India,
Department of Posts,
New Delhi-110001.**

**2. The Chief Postmaster General,
Assam Circle, Guwahati-781001.**

**3. The Postmaster General,
Dibrugarh Region, Dibrugarh-786001.**

**4. The Director of Postal Services,
Guwahati-781001, Assam.**

**5. The Sr. Superintendent of Post Offices,
Cachar Division,
Silchar-788001.
District Cachar (Assam)**

**6. The Chief Medical Officer
P&T Dispensary,
P.O. silchar - 788001.
District Cachar (Assam)**

.....Respondents

By Advocate Mrs M. Das, Addl. C.G.S.C.



ORDER**KHUSHIRAM (MEMBER-A)**

The Applicant was appointed on 21.10.1975, as Laboratory Technician (in the pay scale of Rs.330-560/-) in P&T Dispensary. The scale of Laboratory Technician by successive Pay Commissions have revised as under :-

3 rd CPC	4 th CPC 01.01.1986	Review/ Anomaly Committee	5 th CPC w.e.f. 01.01.1996
Rs.330-560	1350-2200 1200-2040	1400-2300	5000-8000/- 4500-7000/-

Laboratory Technicians, in other Central Government Departments, were granted the scale of Rs.1400-2300/- by 4th CPC. CPMG of Assam Circle, issued a circular dated 05.07.1995 (while issuing gradation list of para-medical staff of P&T Dispensaries); wherein two pay scales have been provided for Laboratory Technicians i.e. Rs.1200-1800/- for SSC and Matriculation passed and Rs.1400-2600 for B.Sc. degree holders. Senior Postmaster of Silchar intimated the Applicant, on 09.11.1995, that his pay scale has been down graded from Rs.1350-2200/- to Rs.1200-1800-2040/- and ordered recovery of excess paid on account of wrong fixation of Rs.14,984/-.

The 5th CPC recommended revision of pay scale from Rs.1400-2300/- & Rs.1400-2600/- to Rs.5000-8000/- with effect from 01.01.1996.



Against the decision dated 09.11.1995, the Applicant approached the Tribunal by filing O.A.117/96; which was disposed of on 15.09.1998 directing the Respondents to waive recovery of the excess amounts paid and to refund the amounts already recovered within a reasonable time. The Respondents were directed to pass a speaking order on the representation submitted by the Applicant.


The Applicant submitted a number of representations to grant him the pay scale of Rs.1400-2300/- with effect from 01.01.1986 and Rs.5000-8000/ with effect from 01.01.1996.

The Applicant was granted first and second ACP in the pay scale of Rs.4500-7000/- and Rs.5000-8000/- respectively; but was denied higher revised scale of pay of Rs.1400-2300/- with effect from 01.01.1986 and in the revised scale of Rs.5000-8000/- with effect from 01.01.1996.

The Applicant alleged that the Respondents had not considered the representation as per direction of the Tribunal, nor the higher pay scale was granted to the Applicant, as was asked by them, with effect from 01.01.1996.

The Applicant was informed on 09.05.2003 (Annexure-12) that in compliance of the order of the Tribunal dated 15.09.98 passed in O.A.117/96 the pay scale of Laboratory Technician of P&T Dispensary (Applicant and 2 others) will be Rs.1200-2040/- with effect from 01.01.1986.

In the above premises, the Applicant has again approached this Tribunal with the present Original Application filed under Section



19 of the Administrative Tribunals Act, 1985 seeking the following reliefs.

- i) To set aside and quash the impugned letter bearing No.AP/RP/31-2/92 dated 09.05.2003 (Annexure-12).
- ii) To direct the Respondents to grant higher revised pay scale of Rs.1400-2300/-rs.1400-2600/- with effect from 01.01.1986 and corresponding scale of Rs.5000-8000/- with effect from 01.01.10\996 to the Applicant with arrear monetary benefit.

2. The Respondents have filed written statement admitting the facts on record and have quoted the recommendation of the Anomaly Committee which was set up to review the recommendation of the 4th CPC which is reproduced as under :-

"The Committee was of the view that the anomaly with regard to Sr. Technician/Technician, Laboratory Technicians, Blood Bank Technician and Sr. Laboratory Assistant was not directly as a result of the implementation of the 4th Pay Commission recommendations and therefore, did not recommend higher scales of pay of this categories of post on that ground."

It has been disclosed in the written statement that the Applicant is a Matriculate/SSc passed having completed the certificate course of Laboratory Technician at the time of his appointment; that prior to introduction of different pay scales on the basis of higher academic qualification, there was a single scale of pay for all Laboratory Technician irrespective of their general qualification but as and when the two different scales of pay was introduced for (1) matriculate/equivalent Rs.1200-30-1440-EB-30-2040/- and for (2) B.Sc. degree holders Rs.1400-40-1600-2300/- the Applicant had to be placed in the lower appropriate scale of pay being only matriculate with a certificate course and that, earlier in O.A.No.117/96 filed by the

Applicant, the Tribunal passed an order on 15.09.1998 to the following effect :-

"There cannot be any doubt that it is within the power of the Respondents to assign two different pay scales to the post of Laboratory Technician as above provided the differentiation is not unreasonable or irrational and does not result in discrimination within the purview of Article 14 of the Constitution.

It has also been disclosed by the Respondents that the excess amount paid to the Applicant was ordered to be recovered on 15.01.2006 and that the decision of the Respondents, on the representation of the Applicant, was communicated to him and the grant of two different pay scales ((i) for matriculate or equivalent and (ii) for B.Sc. degree holder) has been justified on the basis of qualification and cannot be claimed by the Applicant who was appointed before introduction of two scales. The Respondents have prayed for dismissal of the Original application.

3. Mr M.Chanda, learned counsel appearing for the Applicant, at the hearing, supported the case of the Applicant on the principle of "similar pay to similar work." He argued that since the work of the Laboratory Technician's in different departments are same the Applicant cannot be deprived of the higher scale being given in other Departments. He cited the following rulings in support of his argument.

- i) 2002 (2) SLJ 245 Miss A.R.Neelayadakshri & Ors. Vs. University of Delhi & Ors.
- ii) 1985 (Supp) SCC 94, P.Savita & Ors. Vs. Union of India, Ministry of Defence.
- iii) 1995 (5) SCC 628, M.R.Gupta vs. Union of India & Ors.
- iv) 1998(8) SCC 154, Chandraprakash Madhavrao Dadwa vs. Union of India & Ors.
- v) 2002 (1) SCC 261, Jaswant Singh vs. Punjab Poultry Field Staff Association & Ors.



- vi) 2006 (3) ATJ 219, T. Abraham & Ors. Vs. Union of India & Ors.
- vii) 1994 (28) ATC 52, Ram Lakhan Prasad vs. State of Bihar & Ors.

The case of Miss A.R. Neelayadashri & Ors. Vs. University of Delhi & Ors., (reported in 2002(2) SLJ 245) is from Delhi High Court. It has been reported that "Equal pay for equal work--revision of qualification--prospective effect--petitioners were recruited, after selection, as per the qualification of provided then--Later the pay scale upgraded providing certain qualifications as necessary--petitioners not granted pay scale--allege they do the same work as others, their qualifications can not be affected retrospectively and will apply to new recruits hence demand upgraded scale--found force in it--petition allowed. The principle of "equal pay for equal work" is not a new one and in the instant case must have been extended by successive Pay Commissions and none of the Pay Commission have upgraded the scale applicable to Applicant to the similarly situated persons who are better qualified than the Applicant. Hence this case cannot be made applicable to the instant case at this belated stage and the case of the Applicant suffers from estoppels as he has accepted the scale recommended by successive pay commissions and has not challenged them before any Court. Annexure-9 is an order passed by this Tribunal in O.A.117/96 dated 05.09.1998, relevant portion of which at para 4 is extracted below :-

"There cannot be any doubt that it is within the power of the respondents to assign two different pay scales to the post of Laboratory Technician as above provided the differential is not unreasonable or irrational and does not result in discrimination

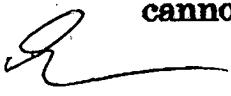


within the purview of Article 14 of the Constitution. In this case the differentiation is based on academic or educational qualification.

In P.Savita & Ors. Vs. U.O.I., Ministry of Defence, (reported in 1985(Supp) SCC 94) it was held by Supreme Court that :


"Classification of Senior Draughtsmen belonging to the same Department and doing identical and same work is violative of Article 14. Persons like the appellants, who were promoted from the post of Draughtsmen to the lower scale of Senior Draughtsmen would get the same pay of Draughtsmen i.e. less pay than the other group of Senior Draughtsmen for the same work. That the basis of this division was seniority is not sufficient to meet the requirements of law. By seniority, a Senior Draughtsmen should get higher pay with the increments that he earns proportionate to the number of years he is in service. But in the present case the higher pay was made dependent upon the classification of Senior Draughtsmen into two groups. In absence of evidence that different grades created on the ground of higher qualification either academic or otherwise or an entitlement by any other criteria laid down or that the Senior Draughtsmen who were placed in the advantageous group, performed work and duties more onerous or different from the work performed by the appellants group, there was no justification for this classification which was based on the mere accident of an earlier entry into service."

This citation is also not applicable; as the two scales have been prescribed after entry of the Applicant in service and differentiation is based on educational and academic qualification; which has been justified in the cases reported in AIR 1982 SC 879 and 1993 Supp (1) SCC 153, wherein it was held that the higher the educational qualification, the better would be the quality of service rendered and the end result would in the ultimate be far more satisfactory. That indeed cannot be disputed.



In *M.R.Gupta vs. Union of India & Ors.* (reported in (1995) 5 SCC 628), the Supreme Court held that "it was not a continuing wrong based on a recurring cause of action. The claim to be paid the correct salary computed on the basis of proper pay fixation, is a right which subsists during the entire tenure of service and can be exercised at the time of each payment of the salary when the employee is entitled to salary computed correctly in accordance with the rules". This citation is not relevant to the instant case as nobody has challenged the delay in filing the case. However since the matter has been examined by successive Pay Commissions, the question of delay is not relevant at all.

In *Chandraprakash Madhavrao Dadwa & Ors. Vs. Union of India & Ors.*, (reported in (1998) 8 SCC 154) the Supreme Court held that "various grades created for Data Entry Operators and Data Processing Assistants. Appellants who were confirmed Data Processing Assistants fitted into pay scale of Rs.1350-2200 as Data Entry Operators Grade B whereas revised pay scale prescribed for Data processing Assistant was Rs.1600-2660. Action sought to be justified on the ground that additional qualifications and job requirements were prescribed for the revised pay scales, and the appellants were fitted into the designation pay scale commensurate with their qualifications and job requirements. Action of the Government was arbitrary and illegal because additional qualifications and job requirements could be applied prospectively only."



This ruling is also not relevant as the higher scale prescribed by the Respondents are based on academic and educational qualifications and have not been made applicable to Applicant and similarly qualified other persons in the Respondent Department.

In the case of Jaswant Singh vs. Punjab Poultry Field Staff Association & Ors., (reported in (2002) 1 SCC 261) of the Supreme Court it has been reported that "Equal pay for equal work" person not qualified for promotion to but discharging duties of Chick Sexer nonetheless entitled to pay and allowances admissible to Chick Sexers. Such relief limited to the period commencing from three years prior to the filing of the suit upto the time he continued to discharge such duties. Appellant working as Chick Sexer but not possessing necessary qualifications under the earlier rules and not holding any of the feeder posts under the subsequent rules, such a person although working as Chick Sexer could not be promoted as Chick Sexer."

In this case also the Apex Court has held that appellants working as Chick Sexer not possessing necessary qualifications under the rules and not holding any of the feeder post under the subsequent rules could not be promoted as Chick Sexer. Therefore, it is apparent that the scale attached with qualifications have not been questioned in this case. Therefore, this citation is also not applicable.

In T. Abraham & another vs. Union of India & ors., (reported in 2006(3) ATJ 219), this Tribunal held that the "applicants who are Lab Assistants and Scientific Assistants in CFSL, CBI claim equal pay as



given to their counter part in DLF and NICFS. Duties, functions and responsibilities of Lab Assistants and Scientific Assistants in all the three Laboratories are exactly the same. Educational qualification for the post of Lab Assistant in CFSL is higher than that of DLF and NICFS. Applicants entitled to pay scale at par as given to their counterparts in DLF and NICFS w.e.f. 1.1.1996 with all consequential benefits." This citation has also been placed in *Randhir Singh vs. Union of India & Ors*, (AIR 1982 SC 879) and *Secretary, Finance Department and Ors. Vs. West Bengal Registration Service Association and Ors.*, (1993 Supp(1) SCC 153). Since the grant of pay scale is an executive job and the policy matter; which has been examined by an expert body like successive Pay Commissions; we are of the opinion that this Tribunal has no reason to interfere with and while passing this order by the Principal Bench it did not refer to the Apex Court judgment rendered in the case of *Union of India Vs. P.V.Hariharan* reported in (1997) 3 SCC 568. Therefore, we find it difficult to agree with the decision of the Principal Bench rendered in *T.Abraham (supra)*.

The last citation 1994 (28) ATC 52, *Ram Lakhan Prasad vs. State of Bihar & Ors.* referred by the learned counsel for the Applicant is not at all relevant to the instant case.

4. Learned counsel for the Respondents argued that in O.A.117/96 (supra) it was held on 15.09.1998 by this Tribunal that "there cannot be any doubt that it is within the power of the respondents to assign two different pay scales to the post of Laboratory Technician as above provided the differentiation is not unreasonable or



irrational and does not result in discrimination within the purview of Article 14 of the Constitution."

In the present case the differentiation is based on academic or educational qualification. In *Randhir Singh vs. Union of India & Ors.* (reported in AIR 1982 SC 879), it was held :

"It is well known that there can be and there are different grades in a service, with varying qualifications for entry into a particular grade, the higher grade often being a promotional avenue for officers of the lower grade. The higher qualifications for the higher grade, which may be either academic qualifications or experience based on length of service, reasonably sustain the classification of the officers into two grades with different scales of pay. The principle of equal pay for equal work would be an abstract doctrine not attracting Art. 14 if sought to be applied to them."

In the case of *Secretary, finance Department and others vs. West Bengal Registration Service Association and others* (reported in 1993 (Supp(1) SCC 153), it was held :

"It was then submitted that the Third (State) Pay Commission had failed to notice the upward revision of the educational requirement for direct recruitment as Sub-Registrars. It was rightly pointed out that one of the inputs for pay determination is educational requirement for the post. The higher the educational qualification the better would be the quality of review rendered and the end result would in the ultimate be far more satisfactory. That indeed cannot be disputed."

The nature of job performed by the applicant as Laboratory Technician is same with that of the job performed by the B.Sc degree holder Laboratory Technician. Both the submissions of Mr Chanda and the pleadings we do not find any material to justify upsetting the action of



the respondents in having two scales of pay for the Laboratory Technician based on their educational qualifications.

In the light of the above, we are of the view that there is no reasonable ground to interfere with the action of the respondents with regard to the pay scales of Laboratory Technician as contained in letter No.5-2/88-PCC dated 24.02.1988 conveyed by letter dated 02.03.1995 and letter No.AP/RP/31-2/92 dated 09.05.2003 (Annexure-12 to O.A).” Since the case of the applicant has already been examined in detail by successive pay commissions and also by the Anomaly Committee set up by Ministry of Finance to look into the discrepancies of 4th Pay Commission, if any, and the Applicant could have raised those issues before the pay commission/anomaly committee, but did not choose to do so. Therefore, the applicant is barred by estoppel from agitating these issues before the Tribunal again and again. On the basis of the academic qualification there was a selection for Laboratory Technician in respect of general qualification. The 4th Pay Commission had recommended two identical scales of Laboratory Technician on the basis of different educational qualifications superseding all previous orders in this regard. Since the Laboratory Technician with different classification clearly formed two separate class of persons they cannot be held identical and therefore the applicant being lower qualified cannot claim higher pay scale granted to the persons having B.Sc. degree as basic qualification for the post of Laboratory Technician.

5. We have considered the materials placed on record and the arguments advanced by learned counsels for both the parties and the citations submitted. We feel that the citations given by the learned



counsel for the Applicant merely relied on the principle of equal pay for equal work as decided by the apex Court in P. Savita & Ors. Vs. Union of India, Ministry of Defence & Ors. reported in 1985(Supp) SCC 94. The subsequent judgments by apex Court and Administrative Tribunals also relied on the earlier judgments on the issue. The facts of other cases relied upon by the learned counsel do not meet the requirements of the present case and are not similar in facts either. In any healthy administrative system upgradation of the educational qualifications to improve the quality of work/service and to compensate them by granting appropriate corresponding upgraded scale is a principle of public policy. Therefore, the applicant's claim for higher pay scale without upgrading his educational qualification is not justified as it is against the public policy not to provide quality service to the ultimate beneficiaries. This matter has also been dealt with by successive pay commissions who had the expertise to look into such anomalies and make suitable recommendations. In the circumstances we feel that this Tribunal has no compelling reason to interfere in such matter. Para 9 and 10 of the judgment of the Apex Court in Union of India vs. P.V.Hariharan (1997) 3 SCC 568 are extracted as under :

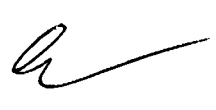
"Before parting with this appeal, we feel impelled to make a few observations. Over the past few weeks, we have come across several matters decided by Administrative Tribunals on the question of pay scales. We have noticed that quite often the Tribunals are interfering with pay scale without proper reasons and without being conscious of the fact that fixation of pay is not their function. It is the function of the Government which normally acts on the recommendations of a Pay Commission. Change of pay scale of a category has a cascading effect. Several other categories similarly situated, as well as



those situated above and below, put forward their claims on the basis of such change. The Tribunal should realize that interfering with the prescribed pay scales is a serious matter. The Pay Commission, which goes into the problem at great depth and happens to have a full picture before it, is the proper authority to decide upon this issue. Very often, the doctrine of "equal pay for equal work" is also being misunderstood and misapplied, freely revising and enhancing the pay scales across the board. We hope and trust that the Tribunals will exercise due restraint in the matter. Unless a clear case of hostile discrimination is made out, there would be no justification for interfering with the fixation of pay scales. We have come across orders passed by Single Members and that too quite often Administrative Members, allowing such claims. These orders have a serious impact on the public exchequer too. It would be in the fitness of things if all matters relating to pay scales, i.e. matters asking for a higher pay scale or an enhanced pay scale, as the case may be, on one or the other ground, are heard by a Bench comprising at least one Judicial Member. The Chairman of the Central Administrative Tribunal and the Chairmen of the State Administrative Tribunals shall consider issuing appropriate instructions in the matter."

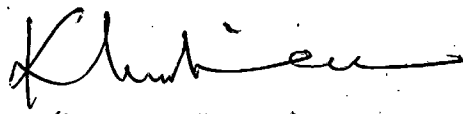
"What pay scale should be attached to a post essentially falls within the domain of the executive power of the State. The Hon'ble High Court of Karnataka has decided this issue rejecting the relief of the applicant in a writ petition no. 5556 of 1999, decided on 25.05.2005 in the case of Director of SISI & Ors. Vs. The Registrar, CAT & K.S.Shankar Raman."

6. Since the later judgment will prevail over the previous judgments we are of the considered view that case of the applicant is barred by law of estoppel and it being a matter of public policy for which the Government sets up Pay Commissions periodically every 10 years. If the successive Pay Commissions have not considered this issue, this Tribunal is to dis-agree with the learned counsel for the Applicant. The CAT, Patna Bench in O.A.154/2007 has already gone into this issue and felt that if there is any anomaly in the pay scale of



the Applicant this matter must have been looked into by the 6th Pay Commission which has submitted its report to the Government and which is under consideration at the highest level of the Government. In case the Central Government grant relief to similarly situated persons then the same can be extended to applicant also.

7. We finally find no merit in this case and, accordingly, the same is dismissed. No costs.



(KHUSHIRAM)
ADMINISTRATIVE MEMBER



(MANORANJAN MOHANTY)
VICE CHAIRMAN

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Filed by the applicant
through U. B. D. B. on 26.05.08

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O.A. No. 324/2006

Shri Sushil Kumar Kar
-Versus-
Union of India and others.

LISTS OF DATES

- 21.10.1975- Applicant was initially appointed as Laboratory Technician in the P&T Dispensary in the scale of pay of Rs. 330-560/-.
(Annexure- 2, page 19 of O.A)
- 01.01.1986- 4th Central Pay Commission recommended and revised the pay scale of Rs. 330 - 560 to Rs. 1350 - 2200 for para-medical staff and the post of Laboratory Technician.
Laboratory Technicians in other Central Govt. departments were placed in the pay scale of Rs. 1400-2300/- following the recommendations of the 4th Pay Commission Report.
- 12.09.1986- Sub-Committee/Review Committee under the Ministry of Health and Family Welfare recommended the revised scale of pay of Rs. 1400-2300/- to the Laboratory Technician.
(Annexure- 4, page- 22 of O.A)
- 27.12.1988- Applicant was placed in the revised scale of pay of Rs. 1400-2300/-.
(Para- 4.4, page- 3 of O.A)
- 02.01.1990- Anomalies Committee constituted by the Director General of Health Services recommended the revised pay scale of Rs. 1400-2300/- to the Laboratory Technician. (Annexure- 5, page- 28)
- 02.03.1995- Chief Postmaster General, Assam Circle in his letter addressed to the I/C P& T Dispensary sought guidelines regarding revision of pay scales of Gr. 'B', 'C' and 'D' employees in terms of 4th CPC.
(Annexure- 7, page- 33)
- 05.07.1995- C.P.M.C. Assam Circle issued gradation list of para-medical staff of P&T Dispensaries, wherein two pay scales have been provided for Laboratory Technicians i.e. Rs. 1200-1800 for SSC and Matriculation and Rs. 1400-2600 for B.Sc.
(Annexure- 6, page- 32)
- 09.11.1995- Senior Postmaster, Silchar communicated to the applicant the decision of down gradation of pay scale of the applicant from Rs. 1350-2200 to Rs. 1200-1800 as well as recovery of Rs. 14,984/-.
(Annexure- 8, page- 33)
- 01.01.1996- Scale of pay of Rs. 1400-2300/Rs. 1400-2600/- was revised to corresponding scale of Rs. 5000-8000/- w.e.f. 01.01.1996 in terms of 5th CPC.

01.10.1997-

15.09.1998- Applicant approached this Hon'ble Tribunal along with others against the arbitrary decision of reduction of pay scale and recovery of excess payment through O.A. No. 117/1996, which was disposed of on 15.09.98 with a direction to the respondents to waive recovery of the amounts and to refund the amounts already recovered within a reasonable time. It was also directed by the Hon'ble Tribunal to the respondents to pass a speaking order on the representation submitted by the applicant.

(Annexure-9, page- 35)

12.10.98, 10.05.99, 03.09.99, 11.04.03- Applicant submitted series of representations praying for grant of scale of pay of Rs. 1400-2300 w.c.f. 01.01.1986 and Rs. 5000-8000/- w.c.f. 01.01.96.

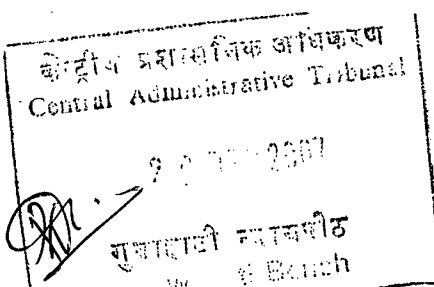
(Annexure- 10 series, page- 43)

04.12.2000- Applicant was granted 1st and 2nd ACP in the scale of pay of Rs. 4500-7000 and Rs. 5000-8000/- respectively but he was denied higher revised scale of pay of Rs. 1400-2300 w.c.f. 01.01.1986 and Rs. 5000-8000/- w.e.f. 01.01.96 and further higher scale.

(Annexure- 11, Page- 49)

09.05.2003- Applicant submitted series of representations but none of the representations has been considered in the manner directed by the learned Tribunal and none of the grounds taken by the respondents has been considered for granting higher revised scale, but surprisingly a reply was given to the applicant vide impugned letter dated 09.05.2003, wherein it has been stated that the applicant's representation has already been disposed of vide letter dated 01.10.1997 and also stated that the pay of the lab technician's pay scale would be Rs. 1200-2040/- w.c.f 01.01.1986.

(Annexure- 12, page- 51 of OA)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

O. A. No. 324 /2006

Sri Sushil Kumar Kar.

-Vs-

Union of India and Others.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

- 1975- Applicant was initially appointed as Laboratory Technician in P&T Dispensary under the then department of Posts & Telegraph in the pay scale of Rs. 330-560/- and at present serving as Laboratory Technician in the P&T Dispensary at Silchar.
- Pay scales of Laboratory Technician, prior to 3rd Central Pay Commission was Rs. 150-300/-, however following the recommendation of the 3rd CPC, said pay scale of Laboratory Technician was revised to Rs. 330-560/-. Applicant was placed in the revised scale of pay of Rs. 1400-2300/- w.e.f. 27.12.1988 as per recommendation of 4th CPC. (Annexure- 1 series)
- However, following the recommendation of the 5th CPC said pay scale was again revised to Rs. 5000-8000/- (Annexure- 3)
- 12.09.1986- Sub-Committee/ Review Committee in it's meeting on 12.09.86 had recommended the revised pay scale of Laboratory Technician as Rs. 1400-2300/-. (Annexure- 4)
- 02.01.1990- Director General of Health Service, New Delhi issued O.M dated 02.01.90, wherein the Committee recommended the revised pay scale of Laboratory Technician as Rs. 1400-2300/-. (Annexure-5)
- 05.07.1995- Gradation list of para-medical staffs of P&T Dispensary, Assam Circle has been published, wherein the pay scale of Laboratory Technician has been mentioned as Rs. 1350-2200/-. (Annexure-6)
- 02.03.1995- Director General of Health Service vide letter dated 02.03.95 issued guideline of revision of pay of para-medical staff on the basis of educational qualification. (Annexure- 7)
- 09.11.1995- Senior Postmaster, Silchar Division vide his letter dated 09.11.95 communicated decision of down gradation of pay scale of the

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applicant from Rs. 1350-2200 to Rs. 1200-1800 as well as recovery of Rs. 14,984/-.

(Annexure- 8)

15.09.1998- Applicant approached this Hon'ble Tribunal along with others against the arbitrary decision of reduction of pay scale and recovery of excess payment through O.A. No. 117/1996, which was disposed of on 15.09.98 with a direction to the respondents to waive recovery of the amounts and to refund the amounts already recovered within a reasonable time. It was also directed by the Hon'ble Tribunal to the respondents to pass a speaking order on the representation submitted by the applicant. (Annexure-9)

12.10.98, 10.05.99, 03.09.99, 11.04.03- Applicant submitted series of representations praying for grant of scale of pay of Rs. 1400-2300 w.e.f. 01.01.1986 and Rs. 5000-8000/- w.e.f. 01.01.96.

(Annexure- 10 series)

04.12.2000- Applicant was granted 1st and 2nd ACP in the scale of pay of Rs. 4500-7000 and Rs. 5000-8000/- respectively but he was denied higher revised scale of pay of Rs. 1400-2300 w.e.f. 01.01.1986 and Rs. 5000-8000/- w.e.f. 01.01.96 and further higher scale.

(Annexure- 11)

09.05.2003- Applicant submitted series of representations but none of the representations has been considered in the manner directed by the learned Tribunal and none of the grounds taken by the respondents has been considered for granting higher revised scale, but surprisingly a reply was given to the applicant vide impugned letter dated 09.05.2003, wherein it has been stated that the applicant's representation has already been disposed of vide letter dated 01.10.1997 and also stated that the pay of the lab technician's pay scale would be Rs. 1200-2040/- w.e.f 01.01.1986. (Annexure- 12)

Hence this Original Application.

P R A Y E R

1. That the Hon'ble Tribunal be pleased to set aside and quash the impugned letter bearing No. AP/RP/31-2/92 dated 09.05.2003 (Annexure- 12).
2. That the Hon'ble Tribunal be pleased to direct the respondents to grant higher revised pay scale of Rs. 1400-2300/Rs. 1400-2600/- w.e.f. 01.01.1986 and corresponding scale of Rs. 5000-8000/- w.e.f. 01.01.1996 to the applicant with arrear monetary benefit.

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3. Costs of the application.
 4. Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

1. That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for providing relief as prayed for.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

Title of the Case: O.A. No. 324 /2006

Sri Sushil Kumar Kar : Applicant

-Versus-

Union of India & Others : Respondents

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Date: - 28.12.06 .

Filed by:
S. Nalin
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act 1985)

O.A. No. 324 /2006

BETWEEN:

Sri Sushil Kumar Kar,
Laboratory Technician,
P&T Dispensary, Itkhola
P.O. Silchar 788001,
District- Cachar (Assam).

... Applicant.

- AND -

1. Union of India represented through the
Secretary to the Government of India,
Department of Posts,
New Delhi- 110001.
2. The Chief Post Master General
Assam Circle, Guwahati 781001.
3. The Postmaster General,
Dibrugarh Region, Dibrugarh- 786001.
4. The Director of Postal Services,
Guwahati- 781001, Assam.
5. The Sr. Superintendent of Post Offices
Cachar Division,
Silchar- 788001.
District Cachar (Assam).
6. The Chief Medical Officer
P&T Dispensary
P.O. Silchar 788001,
District Cachar (Assam).

... Respondents.

DETAILS OF THE APPLICATION

1. Particulars of Order(s) against which this application is made:

Sushil Kumar Kar

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Filed by:-
the applicant-
Through:-
S. N. N. N.
Advocate
29.12.2006

This application is made against the arbitrary action of the respondents in downgrading the applicant's scale of pay on the plea of wrong pay fixation as well as non-consideration of applicant's applications/representations that were filed on 12.10.1998 and 03.09.1999 as well as representation dated 11.04.2003 in terms of the Judgment & Order dated 15.09.1998 in O.A No. 117/1996 of this Hon'ble Tribunal and against the letter dated 09.05.2003 issued by the Chief Postmaster General, Guwahati.

2. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of the present case is amenable to the jurisdiction of this Hon'ble Tribunal.

3. Limitation:

The applicant further declares that the present case has been filed within the period of limitation as provided under Section 21 of the Administrative Tribunals Act 1985.

4. Facts of the Case:

- 4.1 The applicant is a citizen of India and as such he is entitled to all the rights and privileges guaranteed under the Constitution of India.
- 4.2 The applicant is a Matriculate with Diploma/Certificate in Medical Laboratory Technology and at present serving as Laboratory Technician in the P & T Dispensary at Silchar under the respondents. He was initially appointed as Laboratory Technician in the year 1975 in P&T Dispensary under the then Department of Posts & Telegraph in the pay scale of Rs. 330 - 560/- (Pre-revised). It is relevant to mention here that at the material time of his entry into the service, the required educational qualification for the post of Laboratory Technician was Matriculation with Certificate Course of Laboratory Technician with 2 years' experience.

Susil Kr. Kar

4.3 The pay scale of Laboratory Technician, prior to coming of the recommendations of the 3rd Central Pay Commission (for short, CPC), was Rs. 150 - 300/-. However, following the recommendations of the 3rd CPC, the said pay scale of Laboratory Technician was revised to Rs. 330 - 560/- and was extended to the Nurses and other Para medical staff working under the respondents. The said pay scale stood further revised to Rs. 1350 - 2200/- by virtue of the recommendations of the 4th CPC.

Copy of extract of 3rd and 4th Pay Commission report is enclosed herewith for perusal of Hon'ble Tribunal as Annexure- 1 (Series).

4.4 Consequent to the recommendations of the 4th CPC, the Para medical personnel in the pay scale of Rs. 330 - 560/- were accordingly placed in the pay scale of Rs. 1350 - 2200/-. However, the applicant having been appointed in the pay scale of Rs. 330 - 580/- was placed in the revised pay scale of Rs. 1400 - 2300/-, the scale which was recommended by the 4th CPC for Laboratory Assistant and others belonging to the broad head of Laboratory Technicians. In the above circumstance, the applicant drew the aforesaid pay scale of Rs. 1400 - 2300/- with effect from 27.12.1988.

4.5 The respondent no. 3 issued a letter on 24.02.1988 and thereby suddenly placed the applicant in the pay scale of Rs. 1200 - 1800/- with retrospective effect and directed for recovery of the amount, which was found to have resulted in overpayment, in view of such placement of the applicant. By the said letter dated 24.02.1988, the respondents had assigned the following pay scales to the Laboratory Technicians according to educational qualification and consequently the applicant was placed in the pay scale of Rs. 1200 - 1800/-.

<u>Educational Qualification</u>	<u>Pre-Revised</u>	<u>Revised</u>
SSC & Matriculate -	Rs. 330- 560/-	Rs.1200- 1800/-
B.Sc. -	Rs. 425- 700/-	Rs.1400- 2600/-

Subhil K. Kar

- 4.6 The applicant states that he possessed the required qualification (i.e. Matriculation with Certificate Course in Laboratory Technology that he had from Assam medical College, Dibrugarh). He also had 2 (two) years' experience at the time of recruitment and as such, he was qualified for the job of Laboratory Technician to which he was appointed after being found suitable in the selection.

A copy of the Appointment Letter of the applicant is annexed herewith as Annexure - 2.

- 4.7 The applicant states that the post of Laboratory Technician is also available in the Central Government Health Service dispensaries and also in National Malaria Eradication Programme under the Government of India and the pay scale is Rs. 330 - 560/- (3rd Pay Commission). However, following the recommendations of the 4th Pay Commission Report, the Government accepted the Pay Scale of Rs. 1320 - 2040 and the said pay scale was again revised to Rs. 5000 - 8000/- in terms of the 5th Pay Commission Report. Notably, the duties and responsibilities of the applicant as Laboratory Technician in the P & T Dispensary is much higher than his counterpart in other Central Government Departments and such higher duties and responsibilities clearly justifies and entitles the applicant to a much higher pay scale than what is payable to the Laboratory Technician in other Central Government Departments. Moreover, the duties and responsibilities of his counterparts who are having B.Sc. degree are performing exactly the same works, duties and responsibilities.

Extract of the Central Civil Service Revised Pay-Scale Rules 1997 are annexed herewith as Annexure - 3.

- 4.8 The recommendations of the 4th Pay Commission was given effect from 01.01.1986 wherein the basic scale of Para-Medical Staff (Category-IX) has

Sushil Kr. Kar

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been revised from Rs. 330-560 to Rs. 1350 - 2200/-. Unfortunately though, the 4th Pay Commission Report nowhere mentioned the post of Laboratory Technician, however, in para 10.434 of the said report the scale of Rs. 1350 - 2200 was shown as the corresponding revised scale of Rs. 330 - 560/-. Noteworthy, consequent to the 4th Pay Commissions Report, the pay scale of Staff Nurse and Pharmacist, which was lower than that of the Laboratory Technician before the year 1973, was placed at higher scale at Rs. 1400 - 2300/- as against the Pay Scale of Rs. 1350 - 2200/- of the Laboratory Technician.

4.9 Consequent to implementation of the 4th Pay Commission Recommendations, the Departmental Council of the Ministry of health & Family Welfare including the Directorate General of Health Services, in the meeting dated 03.09.1986 appointed a Sub-Committee/Review Committee to look into the matters relating to the items that were referred to the 4th Pay Commission but received no recommendations of the Commission.

4.10 The Sub-Committee/Review Committee held its meeting on 12.09.1986 and observed that barring only about 10 categories of Group C & D posts, the rest of categories of posts received no or little attention of the Pay Commission. Therefore, the said Sub-Committee after a very thorough exercise found out the reasonable and feasible scales of pay for various categories of posts under the Ministry of Health & Family Welfare and made suggestions to that effect. Be it stated that the Sub-Committee/Review Committee in Para 4 & 7 of its suggestions had recommended the revised Pay Scale of Laboratory Technician as Rs. 1400 - 2300/-.

Extract of the Suggestions of the Sub-Committee/Review Committee is annexed herewith as Annexure - 4.

Sushil K. Kaur

4.11 Thereafter, in 1989 the Director General of Health Service constituted another Review Committee being named as "Anomalies Committee" under the chairmanship of the Additional Secretary (Health). The minutes of the meeting of the said committee held on 20.12.1989 was circulated in the form of Office Memorandum from the Directorate General of Health Service, New Delhi dated 02.01.1990 wherein in sub-clause (iii) of Clause (IV), the Committee recommended the revised Pay Scale of Laboratory Technician as Rs. 1400 - 2300/-.

A copy of the Office Memorandum dated 02.01.1990 is annexed herewith as Annexure - 5.

4.12 The applicant states that he is treated as Para-Medical Staff although the post of Laboratory Technician has not been specifically mentioned in the 4th Pay Commission Report. Nevertheless, he was given the benefit of revised pay scale at par with the other Para-Medical Staff who were having identical pre-revised scale of Rs. 330 - 560/-. Thus, the applicant ought to have been placed in the scale of Rs. 1400 - 2300/- as recommended by the Review Committee/Anomalies Committee as mentioned above.

4.13 the applicant states that gradation list of para-medical staffs of the P & T Dispensary, Assam Circle, corrected up to 31.12.1993 has been published vide No. Staff/28-8/92 dated 20.03.1995 wherein the pay scale of Laboratory Technician has been mentioned as Rs. 1350 - 2200/-. But subsequently, the said gradation list has been corrected vide Circular No. Staff/28-8/91 dated 05.07.1995 and two scales have been provided for Laboratory Technician as indicted below: -

- Laboratory Technician with SSC and Matriculation: Rs. 1200 - 1800
- Laboratory Technician with B. Sc. : Rs. 1400 - 2600

Sushil K. Kar.

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Copy of the Circular dated 05.07.1995 is annexed herewith as
Annexure - 6.

- 4.14 The applicant states that the aforesaid letter has been purportedly issued on the basis of a letter No. Est/2-82/93 (Rlg) dated 02.03.1995, which is again, based on Directorate's letter No. 5-2/88-PCC dated 24.02.1988 wherein a guideline of revision of pay of para-medical staff has been given on the basis of educational qualification.

Copy of the aforesaid letter dated 02.03.95 is annexed herewith as
Annexure - 7.

- 4.15 The applicant states that consequent to the aforesaid decision, he has suffered reduction of pay scale since his educational qualification is Matriculation with Diploma/Certificate of Medical Laboratory Technology Course. After the arbitrary decision of reduction of Pay Scale from Rs. 1350 - 2200 to Rs. 1200 - 1800, the respondents ordered for recovery at the rate of Rs. 200 per month. However, recovery has not been made till date but the same is under consideration as communicated by the impugned letter bearing No. AP/RP/31-2/92 dated 09.05.2003.

- 4.16 As a result of aforesaid reduction and recovery, the applicant has been subjected to deduction of excess payment of Rs. 14, 984/- for the period from 01.10.1986 to 31.10.1995 as well as down gradation of pay scale from November 1995 which has been communicated to him by the Senior Postmaster, Silchar through letter No. B-2/Service book/Corr/SC-12 dated 09.11.1995.

A copy of the aforesaid letter dated 09.11.1995 is annexed herewith
as Annexure - 8.

- 4.17 The applicant states that against such arbitrary and whimsical decision of the respondent, he had submitted several representations demanding

Susheel Kumar Kar

reconsideration of the matter, however, without any result. In the aforesaid circumstance, the applicant along with others had approached this Hon'ble Tribunal in OA No. 117 of 1996, which was disposed of, on 15.09.1998 with a direction to the respondents to waive recovery of the amounts and to refund the amounts already recovered within a reasonable time.

A copy of the Order dated 15.09.1998 in OA No. 117 of 1996 is annexed herewith as Annexure - 9.

- 4.18 The applicant states that even after passing of the aforesaid Order of this Hon'ble Tribunal the respondents have extended no considerations whatsoever to remove the anomaly in the matter of pay scale and consequently, the applicant is still being subjected to the down graded scale of pay. The representation-dated 12.10.1998, 10.05.1999, 03.09.1999 and 11.04.2003 submitted by the applicant on the issue has not evoked any favourable response so far.

Copy of the representation-dated 12.10.98, 10.05.99, 03.09.99 and 11.04.03 are annexed herewith as Annexure - 10 (Series).

- 4.19 That it is stated that respondents vide order bearing No. B1/Promotion/ACP Scheme dated 04.12.2000 granted 1st and 2nd financial upgradation to the applicant in the scale of Rs. 4500-7000 and Rs. 5000-8000/- respectively, without considering the representations submitted by the applicant and also without granting higher revised pay scale of Rs. 1400-2300/Rs. 1400-2600/- w.e.f. 01.01.1986 and corresponding scale of Rs. 5000-8000/- w.e.f. 01.01.1996 to the applicant and thereafter consequential higher revised scale of pay as per 1st and 2nd ACP.

Copy of the order dated 04.12.2000 is enclosed herewith and marked as Annexure- 11.

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4.20 That it is stated that respondents vide impugned order bearing letter No. AP/RP/31-2/92 dated 09.05.2003 arbitrary rejected the claim of the applicant for higher revised scale of pay of Rs. 1400-2600/-. Most surprisingly in the said impugned letter it is stated that the representation submitted by the applicant in terms of CAT Guwahati order dated 15.09.98 passed in OA No. 117 of 1996 have already been disposed of as per Dte's letter dated 01.10.97. It is quite clear from the impugned order dated 09.05.03 that respondents have not considered the representation of the applicant after the order dated 15.09.1998 passed in O.A. No. 117/1996 and most mechanically issued the impugned order dated 09.05.03. In this connection it is stated that this Hon'ble Tribunal vide it's order dated 15.09.98 directed that in the event of submission of representation by the applicant the respondents shall consider the contention of the applicants and shall issue a speaking order within three months from the date of receipt of the representation. It is further stated that the respondents did not consider the grounds raised in the series of representations submitted by the applicant in the manner as directed by this Hon'ble Tribunal and most mechanically issued the impugned order dated 09.05.2003, which is cryptic, non-speaking and arbitrary, as such the impugned order dated 09.05.2003 is liable to be set aside and quashed.

Copy of the impugned order dated 09.05.03 is enclosed herewith as
Annexure- 12.

4.21 The applicant states that the 'Laboratory Technician' constitutes a single cadre and the applicant is experienced having special qualification required for the post. Besides, he is doing equal work as being done by a B. Sc. Degree holder 'Laboratory Technician'. Therefore, the decision of the respondents to classify and distinguish the incumbents of the post on the basis of educational qualification is irrational and unjustified being in violation of the Article 14 of the Constitution of India. Even assuming and not admitting that the applicant is not

Sushil Kr Kar.

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entitled to the scale of pay at par with his counterpart, who are B.Sc degree holder, "Laboratory Technician" even then the applicant is entitled to the higher revised scale of Rs. 1400-2600/- as per his professional qualification i.e. Matriculate with diploma/certificate in medical laboratory technology as because in other Central Govt. establishment similarly situated employees, having matriculation with diploma certificate have been granted the higher revised pay scale of Rs. 1400-2600/- following the recommendation of 4th CPC, as for example in the department in National Malaria Department, Laboratory Technician of SAFDARJUNG HOSPITAL, New Delhi, the Laboratory Technician, having similar recruitment qualification like applicant granted the scale of pay of Rs. 1,400-2,600/- therefore applicant is also entitled to similar scale of Rs. 1,400-2,600/- at least w.e.f 01.01.1986 with all consequential benefit including appropriate corresponding scale w.e.f 01.01.1996 in terms of 5th CPC with arrear monetary benefit.

- 4.22 The applicant states that the aforesaid division of pay scale for the post of Laboratory Technician having not been recommended either by the 4th Pay Commission or by the departmental Review/Anomaly Committee, the action of the respondents is without jurisdiction and against the principles of justice, equity and good conscience.
- 4.23 The applicant states that even in a later advertisement published under Circular No. B1/Staff/Recruit/L.T/94 dated 20.05.1994 for recruitment of Laboratory Technician; the respondents have indicated the required educational qualification as "HSLC Exam Passed with Certificate Of Laboratory Technician Course Passed" and the scale of pay has been mentioned as "Rs. 1350 - 2200".
- 4.24 That the applicant further beg to state that although the applicant submitted series of representations but none of the representations has been considered in the manner directed by the learned Tribunal and none

Justice Mr. Kar

of the grounds taken by the respondents has been considered for granting higher revised scale, the last representation was submitted on 11.04.2003, but surprisingly a reply was given to the applicant vide impugned letter No. AP/RP/31-2/92 dated 09.05.2003, wherein it has been stated that the applicant's representation has already been disposed of vide letter no. 8-1/95-PE-I dated 01.10.1997 and also stated that the pay of the lab technician's pay scale would be Rs. 1200-2040/- w.e.f 01.01.1986. As such the impugned order dated 09.05.2003 is liable to be set aside and quashed.

4.25 That, it is stated that the applicant is suffering huge financial loss in each and every month due to denial of the benefit of higher revised scale of pay of Rs. 1,400-2,600/- at least w.e.f 01.01.1986 with all consequential benefit including appropriate corresponding scale w.e.f 01.01.1996 to the applicant and as such loss is recurring in nature, and such denial gives rise to continuous cause of action in each and every month when the applicant is drawing his salary at a lower scale.

4.26 The applicant states that he has filed this application bona fide and in the interest of Justice.

5. GROUND FOR GRANT OF RELIEF WITH LEGAL PROVISION:

5.1 For that, the 4th Central Pay Commission recommended and revised the pay scale of Rs. 330 - 560 to Rs. 1350 - 2200 for para-medical staff and the post of Laboratory Technician being in the cadre of para-medical staff, therefore, the applicant is also at least entitled to the said revised scale.

5.2 For that, the Anomaly Committee as well as the departmental Sub-Committee/ Review Committee, which was constituted for review of the recommendations of the 4th Pay Commission, have categorically suggested/recommended the scale of Rs. 1400 - 2300 for the post of Laboratory Technician.

Sushil K. Kar

- 5.3 For that, in other Central Govt. establishment similarly situated employees, working as Laboratory Technician having similar recruitment qualification like the applicant have been granted the higher revised pay scale of Rs. 1400-2300/Rs. 1400-2600/- w.e.f. 01.01.1986 and corresponding scale of Rs. 5000-8000/- w.e.f. 01.01.1996 hence the applicant is also entitled to similar scale of Rs. 1,400-2,600/- at least w.e.f 01.01.1986 including appropriate corresponding scale w.e.f 01.01.1996 in terms of 5th CPC with arrear monetary benefit.
- 5.4 For that the applicant submitted series of representations but none of the representations has been considered in the manner directed by the learned Tribunal and none of the grounds taken by the respondents has been considered for granting higher revised scale, and issued the impugned order dated 09.05.2003, which is cryptic, non-speaking and arbitrary, as such the impugned order dated 09.05.2003 is liable to be set aside and quashed.
- 5.5 For that, the applicant is experienced for the post by virtue of his long service and having special qualification of Laboratory Technology whereas the persons with B. Sc. Degree do not have any such qualification and therefore, the applicant can in no way be regarded inferior to or for that matter discriminated against the persons with B. Sc. Degree, when both the cadre are performing the similar duties and responsibilities.
- 5.6 For that, the applicant has been doing similar work as a Laboratory Technician as being done by a person with B. Sc. Degree and as such, he is required to be treated at par and is liable to be given equal pay scale as is given to the persons with B. Sc. Degree.
- 5.7 For that, the abrupt change and differentiation in the pay scale of the applicant is highly unjustified and unreasonable and in violation of the Article 14 of the Constitution of India.

Sushil K. Kar.

5.8 For that, the impugned action of the respondents is in violation of the principles of natural justice.

6. Matter not previously filed before and/or pending with any other Court/Tribunal:

The applicant declares that save and except filing O.A. No. 117/96 he has not filed any suit/case involving the present issue raised in this application before any Court/Tribunal nor any such suit/case is pending before either of them.

7. Details of Remedies Exhausted:

The applicant has exhausted all remedies available to him. Representations filed before the respondents on the issue have not evoked any positive response and therefore, he has no other alternative and equally efficacious remedy but to approach this Hon'ble Tribunal.

8. Relief(s) Prayed For:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief (s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

8.1 That the Hon'ble Tribunal be pleased to set aside and quash the impugned letter bearing No. AP/RP/31-2/92 dated 09.05.2003 (Annexure- 12).

8.2 That the Hon'ble Tribunal be pleased to direct the respondents to grant higher revised pay scale of Rs. 1400-2300/Rs. 1400-2600/- w.e.f. 01.01.1986 and corresponding scale of Rs. 5000-8000/- w.e.f. 01.01.1996 to the applicant with arrear monetary benefit.

8.3 Costs of the application.

Jusil Kar Kar

3.4 Any other relief (s) to which the applicant is entitled as the Hon'ble Tribunal may deem fit and proper.

9. Interim order prayed for:

During pendency of the application, the applicant prays for the following interim relief: -

9.1 That the Hon'ble Tribunal be pleased to direct the respondents that the pendency of this application shall not be a bar for the respondents for providing relief as prayed for.

10.

11. Particulars of the I.P.O

i)	I.P.O No.	: 289. 934804.
ii)	Date of issue	: 26.12.2006
iii)	Issued from	: G. P. O. Guwahati.
iv)	Payable at	: G. P. O. Guwahati.

12. List of enclosures:
As given in the index.

VERIFICATION

I Shri Sushil Kar, aged about 53 years, working as Laboratory Technician, P&T Dispensary, Itkhola, P.O. Silchar 788001, District- Cachar (Assam), applicant in the instant application, do hereby verify that the statements made in Paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in Paragraph 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 25th day of December, 2006.

Sushil Kar, Kar.

Annexure-1 (series)

Designation	Old pay	3d pay cpm report.
1. Medical Officer adhoce	Rs. 325-25-500-30-590- E. B. -30-800.	Rs. 650-30-740-35-810-E. B. 35-850- -40-1000-E. B.
2. Medical Store Keeper	Rs. 130-5-160-8-200-E; B; 8-256-E. B. 8-280-300.	Rs. 330-10-380E. B. 12-560E. B. 15-560.
3. Laboratory Technician	Rs. 150-5-160-8-240E. B. 8-228-10-300.	Rs. 330-10-380E. B. 12.-500E. B. 15-560.
4. Pharmacist designation Compounder	Rs. 130-5-175-E. B. 205- 7-215E. B. 7-300.	Rs. 330-10-380E. B. 12-500E. B. 580.
1. Nurse.	Rs. 125-3-----355.	Rs. 330-8-300-E. B. 8-340-10-360-12- 420E. B. 12-480.
Dresser. N/Orderly	Rs. 80-1-85-2-95E. B. 110.	Rs. 210-4-250E. B. 5-270.
6. Female Attendent	Rs. 70-1-80-E. B. 1- '5.	Rs. 196-3-220E. B. 3-232.
7. Telephone Inspector	Rs. 150-5----- -----300.	Rs. 380-12-E. B. 15-560.

Published in the India Gazette 17th Dec/1973. Reg. No. D221.

Attended
Lush
Advocate

2. Section Officer (SG)	Rs. 775-35-880-40-1000	Rs. 2000-60-2300-EB-75-3200	(Functional Grade requiring promotion as per normal procedure.)
Accountant (SG)			
Junior Accounts Officer (SG)			The existing incumbents in the Selection Grade will be allowed the revised scale of Rs.2000-600-2300-EB-75-3200 as personal to them.
V. TEACHING STAFF			
1. Primary School Teacher	330-10-350-EB-380-15-500-EB-15-560	1200-30-1560-EB-40-2040	<i>Those teachers who are not in the existing scales of pay mentioned in Col. 3 may be given the revised scales mentioned in this Col. only after ensuring that they have the prescribed qualifications. Those who do not possess prescribed qualifications will be given the revised scales mentioned in Part 'A' of this Schedule, which correspond to their existing scales. The Selection Grade scale indicated in this column will be admissible only to those teachers who are already in the existing Selection Grade scales mentioned in column 3</i>
2. Trained Graduate Teacher/Head Master, Primary School	440-20-500-EB-25-700-EB-25-750	1400-40-1600-50-2300-EB-60-2600	
3. Post Graduate Teacher/Head Master, Middle School	550-25-750-EB-30-900	1640-60-2600-EB-75-2900	
4. Primary School Teacher (SG)	530-20-630	1400-40-1600-50-2300-EB-60-2600	
5. Trained Graduate Teacher (SG) Head Master, Primary School (SG)	740-35-880	1640-60-2600-EB-75-2900	
6. Post Graduate Teacher (SG) Head Master, Middle School (SG)	775-35-880-40-1000	2000-60-2300-EB-75-3200-100-3500	
7. Vice-Principal / Head Master	650-30-740-35-810-EB-35-880-40-1000-EB-40-1200	2000-60-2300-EB-75-3200-100-3500	
VI. LABORATORY TECHNICIANS			
1. Laboratory Assistant: (Directorate of Marketing and Inspection)	380-12-500-EB-15-560	1400-40-1800-EB-50-2300	
2. Junior Chemist (Directorate of Marketing and Inspection)	425-15-500-EB-15-560-20-700		
3. Laboratory Attendant (Central Revenue Control Laboratories)	225-5-260-6-290-EB-6-308	950-20-1150-EB-25-1400	
4. Laboratory Attendant (Central Revenue Control Laboratories) (SG)	260-6-326-EB-8-350		
VII. MOTOR VEHICLE DRIVER			
Drivers of Motor Vehicles Including Staff Cars.	(i) 260-6-326-EB-8-350 (ii) 260-6-290-EB-6-326-8-366-EB-8-390-10-400	950-20-1150-EB-25-1500	
VIII. OTHER CATEGORIES OF STAFF (COOK AND BEARER)			
Cooks/Cook Bearers/	1. 196-3-220-EB-3-232	750-12-870-EB-14-940	<i>The Ministries/Departments should review the work content of the posts carrying the scale of Rs.225-308 so that they are classified as carrying either</i>
Butlers/Bearers/	2. 200-3-212-4-232-EB-4-240		
Attendants/Walters, etc.	3. 200-3-206-4-234-EB-4-250	775-12-955-EB-14-1025	
	4. 210-4-250-EB-5-270		
	5. 210-4-226-EB-4-250-EB-5-290	800-15-1010-EB-20-1150	
	6. 225-5-260-6-290-EB-6-308	825-15-900-EB-20-1200	
	7. 260-6-326-EB-8-350		
	8. 260-6-290-EB-6-326-8-366-EB-8-390-10-400	950-20-1150-EB-25-1500	
	9. 290-6-326-8-350-EB-8-390-10-400		
	10. 320-6-326-8-390-10-400		
	11. 330-8-370-10-400-EB-10-480	1200-30-1440-EB-30-1800	

Alto
 J. K.
 Adwade

1	2	3	4
		Rs.	
		12 380-12-500-EB-15-550	Rs. 1320-30-1560-EB-40-2040

the scale of Rs.800-1150 or 950-1500. But the existing Incumbents of these posts will continue in the revised scale of Rs.825-15-900-EB-20-1200 as personal to them unless they are found fit for being placed in the scale of Rs.950-1500.

IX. PARA MEDICAL STAFF

- | | | |
|---|--|--|
| 1. Radiographers/X-Ray Technicians/Pharmacists | 330-10-380-EB-12-500-EB-15-560 | 1350-30-1440-40-1800-EB-50-2200 |
| 2. S.G.Radiographers/X-Ray Technicians/Pharmacists (S.G.) | 425-15-560-EB-20-640 | |
| 3. X-Ray Technicians | 425-15-500-EB-15-560-20-700 | 1400-40-1600-50-2300-EB-60-2600 |
| 4. Auxiliary Nurse and Midwife (ANM) | (i) 260-6-326-EB-8-350
(ii) 260-6-290-EB-6-326-8-366-EB-8-390-10-400 | 975-25-1150-EB-30-1540
(There will also be a promotional grade in scale of Rs.1200-30-1560-EB-40-2040 requiring promotion as per normal procedure.) |
| 5. Staff Nurses | (i) 425-15-560-EB-20-640
(ii) 425-15-500-EB-15-560-20-700 | 1400-40-1600-50-2300-EB-60-2600 |
| 6. Nursing Sister | (i) 455-15-560-EB-20-700
(ii) 470-15-530-EB-20-650-EB-25-750 | 1640-60-2600-EB-75-2900 |
| 7. Nursing Staff (Supervisory) | (iii) 550-20-650-25-700
(i) 550-20-650-25-750
(ii) 550-25-750-EB-30-900
(iii) 650-30-740-35-880-EB-40-960
(iv) 700-30-760-35-900 | 2000-60-2300-EB-75-3200 |
| TEACHING SIDE Nurses (Teaching Staff) | (i) 425-15-560-EB-20-640
(ii) 455-15-560-EB-20-700
(iii) 550-20-650-25-750
(iv) 550-25-750-EB-30-900
(v) 650-30-740-35-880-EB-40-960
(vi) 700-30-760-35-900 | 1400-40-1600-50-2300-EB-60-2600
1640-60-2600-EB-75-2900
2000-60-2300-EB-75-3200 |

X. VETERINARY OFFICERS

- Veterinary Officer
- (i) 425-15-500-EB-15-560-20-700
 - (ii) 550-20-650-25-750-EB-30-900
 - (iii) 650-30-740-35-810-EB-35-880-40-1000-EB-40-1200 (in BSF/ITBP)

All posts for which a degree in veterinary science is the minimum qualification will be in the scale of Rs.2000-60-2300-EB-75-3200-100-3500. Others will get the revised scales of pay mentioned in column 4 of Part 'A' of this schedule which are corresponding to their existing scales of pay.

XI. CENTRAL SECRETARIAT STENOGRAPHERS SERVICE

- 1. Duty posts included in Grade 'B' of CSSS 650-30-740-35-880-EB-40-1040
- 2. Duty posts included in Grade 'A' of CSSS 650-30-740-35-810-EB-35-880-40-1000-EB-40-1200

2000-60-2300-EB-75-3200-100-3500

There are Stenographers working in other Organisations which are not participating in the Central Secretariat Stenographers Service but where the posts are in comparable grades and pay scales and the method of recruitment through open competitive examination are also the same. Stenographers in these Organisations like Ministry of External Affairs may be allowed the same revised scale of pay mentioned in this column.

INDIAN POSTS AND TELEGRAPHS DEPARTMENT
OFFICE OF THE GENERAL MANAGER TELECOMMUNICATIONS : N.E. CIRCLE.
SHILLONG-793001.

Memo No. STE/WF/DR/Rectt(A)

Dt. Shillong, the 21-10-75.

Shri Sushil Kr. Kar is hereby provisionally appointed as Laboratory Technician P&T Dispensary Dibrugarh with immediate effect in the Scale of Pay of Rs. 330-10-380-ED-12/500-ED-15-560- plus other allowances as admissible from time to time.

2. The appointment of Shri S.K. Kar is purely temporary and may be terminated at any time without assigning any reason. His provisional appointment as Laboratory Technician may also be terminated if his police verification report is not satisfactory and also if he is not found medically fit.

Sd/-
(M.K.DAS)

Asstt. Director Telecom (S&E)
For General Manager Telecom
N.E. Circle, Shillong.

Copy to:

Regd

1. Shri Sushil Kr. Kar, Laboratory Asstt. P.O. Silchar Medical College, Silchar.
2. The DM/Dibrugarh. The Candidate should be medically examined before joining and his medical certificate or fitness together with two certificates from two respectable persons relating to his character may kindly be forwarded to this office for record.
3. The A.O. Telecom Shillong.
4. The P.F. of the official.

For General Manager Telecom
N.E. Circle, Shillong.

Attended
Sub,
Advocate

ANNEXURE - 3

Extract From Central Civil Services (Revised Pay) Rules 1997

Sl. No.	Posts	Present Scale (Rs.)	Revised Scale (Rs.)	Paragraph No. of Report
(1)	(2)	(3)	(4)	(5)
(b)	Executive Engineer	3,000-100-3,500-125-4,500	10,000-325-15,200-12,000-375-16,500 (Non-functional JAG)	50.45
IX. SUBORDINATE ENGINEERING CADRES				
(a)	Diploma Engineers	1,400-40-1,800-50-2,300	5,000-150-8,000	50.23 & 50.24
		1,600-50-2,300-60-2,660	5,500-175-9,000	50.23 & 50.24
		1,640-60-2,600-75-2,900	5,500-175-9,000	50.23 & 50.24
		2,000-60-2,300-75-3,200	6,500-200-10,500	50.23 & 50.24
		2,000-60-2,300-75-3,200-100-3,500	6,500-200-10,500	50.23 & 50.24
		2,375-75-3,200-100-3,500	7,450-225-11,500	50.23 & 50.24
		2,375-75-3,200-100-3,500-125-3,750	7,500-250-12,000	50.23 & 50.24
X. DRAWING OFFICE STAFF				
(a)	Draftsman Grade II/Senior Draftsman	1,400-40-1,800-50-2,300	5,000-150-8,000	50.37
(b)	Draftsman Grade I/Head Draftsman	1,600-50-2,300-60-2,660	5,500-175-9,000	50.37
(c)	Graduate Engineers recruited against posts of drawing/design office in subordinate Engg. cadres	1,400-40-1,800-50-2,300 1,600-50-2,300-60-2,660 2,000-60-2,300-75-3,200	6,500-200-10,500	50.37
XI. LABORATORY STAFF				
(a)	Laboratory Technician	1,320-30-1,560-EB-40-2,040	4,500-125-7,000	55.149
MEDICAL AND PARAMEDICAL SERVICES				
XII. INDIAN SYSTEM OF MEDICINE AND HOMOEOPATHY (ISMANDH)				
(a)	Starting pay scale for all posts requiring medical practice in ISMandH and a degree in ISMandH as the minimum qualification		8,000-275-13,500	52.33
XIII. CLINICAL PSYCHOLOGISTS				
(a)	All posts of Clinical Psychologists requiring minimum qualification of M.A./M.Sc (Psychology) and DM & SP	1,640-60-2,600-EB-75-2,900/2,000-60-2,300-EB-75-3,200-100-3,500/ 2,200-75-2,800-EB-100-4,000	8,000-275-13,500	52.46
(b)	All posts requiring M.A./M.Sc (Psychology) but not DM & SP	1,640-60-2,600-EB-75-2,900	5,500-175-9,000	52.46
XIV. DIETITIANS				
(a)	Assistant Dietitian	1,400-40-1,800-EB-50-2,300	5,500-175-9,000	52.52
(b)	Dietitian	1,640-60-2,600-EB-75-2,900	6,500-200-10,500	52.52
(c)	Senior Dietitian	2,000-60-2,300-EB-75-3,200-100-3,500	8,000-275-13,500	52.52
(d)	Chief Dietitian	2,375-75-3,200-100-3,500	10,000-325-15,200	52.52
XV. NURSING STAFF				
(a)	Deputy Nursing Superintendent	2,000-60-2,300-EB-75-3,200-100-3,500	7,500-250-12,000	52.58
XVI. PUBLIC HEALTH NURSES				
(a)	Auxiliary Nurse Midwives	975-25-1,150-EB-30-1,540	4,000-100-6,000	52.72
(b)	Lady Health Visitors	1,200-30-1,560-EB-40-2,040	4,500-125-7,000	52.72
XVII. OPERATION THEATRE TECHNICAL STAFF				
(a)	O.T. Technician	1,200-30-1,560-EB-40-2,040	5,000-150-8,000	52.78

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SWAMY'S-CCS (REVISED PAY) RULES, 1997

FIRST SCHEDULE

33

Attached
for
Advocate

Sl. No.	Posts	Present Scale (Rs.)	Revised Scale (Rs.)	Paragraph No. of Report
(1)	(2)	(3)	(4)	(5)
XVIII. PHARMACISTS				
(a)	Pharmacists possessing entry qualification of Diploma in Pharmacy		4,500-125-7,000	52.90
XIX. PHYSIOTHERAPISTS AND OCCUPATIONAL THERAPISTS				
(a)	Physiotherapist/Occupational Therapist	1,400-40-1,800-EB-50-2,300	5,500-175-9,000	52.96
(b)	Sr. Physiotherapist/Sr. Occupational Therapist	2,375-75-3,200-EB-100-3,500	8,000-275-13,500	52.96
XX. PUBLIC AND SOCIAL HEALTH WORKERS				
(a)	Medical Social Worker (holding qualification of Post Graduation or Graduation with 2 years Diploma in Social Work)	1,600-50-2,300-EB-2,660	5,500-175-9,000	52.103
(b)	Social Worker/Psychiatric Worker (holding qualification of Post Graduation or Graduation with 2 years Diploma in Social Work)	1,400-40-1,800-EB-50-2,300	5,500-175-9,000	52.103
(c)	Welfare Officer (Grade II)/Probation Officer (Grade II)/Prison Welfare Officer	1,400-40-1,600-50-2,300-EB-60-2,600	5,500-175-9,000	104.65
XXI. RADIOGRAPHERS/X-RAY TECHNICIANS				
(a)	Radiographer	1,350-30-1,440-40-1,800-EB-50-2,200	5,000-150-8,000	52.107
(b)	Radiographers requiring a minimum of 2 years' diploma/certificate after 10 + 2		4,000-100-6,000	52.107
XXII. OTHER TECHNICIANS				
(a)	Posts requiring Matriculation with some experience as minimum qualification for direct recruitment		4,000-100-6,000	52.111
(b)	Technicians with either a Degree in Science or Diploma in Engineering		5,000-150-8,000	52.111
XXIII. GARDENERS AND NURSERY WORKERS				
(a)	Sr. Garden Attendant	775-12-871-14-1,025	2,650-65-3,300-70-4,500	55.129
(b)	Asstt. Foreman	825-15-900-20-1,200	3,050-75-3,950-80-4,590	55.129
XXIV. VETERINARY STAFF				
(a)	Entry grade for all posts requiring a degree of B.V. Sc. and Animal Husbandry with registration in the Veterinary Council of India as the minimum essential qualification		8,000-275-13,500	52.291
(b)	Assistant Veterinarian/Biological Assistant/Zoological Assistant Possessing B.Sc. Degree in Biological Sciences	1,200-30-1,560-40-2,040/1,400-40-1,800-50-2,300/1,600-50-2,300-60-2,660	5,000-150-8,000	55.296
(c)	Stockman/Compounder/Stock Asstt./Animal Husbandry Asstt./Dresser	950-20-1,150-25-1,500 to 1,200-30-1,560-40-2,040	4,000-100-6,000	55.296
(d)	Para-Veterinary Attendant including Animal Attendant/Bull Attendant/Cattle Attendant/Syce/Camel Attendant/Shepherds with minimum qualification of 8th class + 2 years experience of handling animals	750-12-870-14-940	2,610-60-3,150-65-3,540	55.296
XXV. TECHNICAL SUPERVISORS & WORKSHOP STAFF				
(a)	Chargeman/Chargeman 'B'/Chargeman (Technical) Grade II/Jr. Engineer, Grade II (Workshop)	1,400-40-1,800-50-2,300	5,000-150-8,000	54.38
(b)	Sr. Chargeman/Chargeman 'A' /Chargeman (Technical) Grade I/Jr. Engineer, Grade I Workshop	1,600-50-2,300-60-2,660	5,500-175-9,000	54.38
XXVI. ELECTRONIC DATA PROCESSING STAFF				
(a)	Data Entry Operator, Grade 'A'	1,150-25-1,500	4,000-100-6,000	55.71
(b)	Data Entry Operator, Grade 'C'	1,400-40-1,800-EB-50-2,300	5,000-150-8,000	55.71

Annexure-4

Ministry of Health and Family Welfare.

Subject: Departmental Council Meeting held on 3.9.86 - Constitution of a Sub-Committee to look into the recommendations of the 4th Pay Commission for Para-medical staff.

In pursuance of the decisions taken in the 15th Ordinary meeting of the Departmental Council of the Ministry of Health & Family Welfare including the Directorate General of Health Services, a Sub-Committee consisting of the following was appointed to look into the matters relating to the items which were referred to the 4th Central Pay Commission but about which the Commission have not made recommendations and for all matters relating to isolated posts peculiar to the Ministry of Health & F.W. (including the Directorate and its Subordinate Offices) keeping in view the anomalies, stagnation, etc.

Official Side:

1. Shri R.K. Jindal, Deputy Secretary (IF)
2. Shri Sarveshwar Jha, Director (A&V), Dte.G.H.S.
(Member-Secretary)

Staff Side:

1. Shri A.K. Mazumdar
2. Shri M.S. Mann
3. Shri Swapan Kumar Roy
4. Shri S.R. Das

2. The meeting of the Sub-Committee was held on the 12th September, 1986 at 10.30 A.M. in the room Director (A&V), Directorate General of Health Services.

3. At the outset, the Sub-Committee was informed that the Director General of Health Services in his reactions to the recommendations of the 4th Central Pay Commission have already conveyed to the Secretary, Ministry of Health & F.W. that the recommendations made for categories like Pharmacists, X-ray Technicians and Radiographers should also be made applicable to the other categories of para-medical posts. He has also held the view in the said communication that the recommendations made for the Staff Nurses in the Union Territory of Delhi should be extended to the similar category in other Union Territories. The Sub-Committee was, further, informed that representations on the subject from some staff associations under the Ministry of Health and Family Welfare had been received. These were also kept in view while deliberation on the total subject.

4. There are a large number of posts in/under the Ministry of Health & F.W. including the Directorate General of Health Services which are quite peculiar to the Ministry and are not to be found in other Ministries/Organisations under the Government of India. Their qualifications, duties and responsibilities are different from other. Even in cases where the categories are to be found elsewhere, it is common knowledge that the requirements of their job are different in institutions like hospitals and research institutions under this Ministry. It was, therefore, quite natural that not only

Attended
Advocate

-2-

the uncommon categories, but also the common categories under this Ministry should have received a different treatment from the 4th Central Pay Commission that what they have received. There are, only a few categories (about 10) among Group 'C' & 'D' which have found specific mention in the report of the 4th Central Pay Commission, the rest of the categories having perhaps received no little attention from the Pay Commission. There is, therefore, great resentment among the employees under this Ministry. This resentment might adversely affect patient/health care activities under this Ministry.

It is with this perspective that the Sub-Committee deliberated on the subject. While time given to the Sub-Committee was very little and, as such, it was not possible to do a very thorough exercise, the Sub-Committee did devote considerable time and energy on working out reasonable and feasible scales of pay which should be allowed to the various categories of employees under this Ministry. The recommendations/suggestions of the Sub-Committee may be seen in the statement enclosed.

As the two members from Calcutta had to go back on 12th September, 1986, when the meeting took place, they authorised Shri Ram Kishan, President, All India. C.G.H.S. Employees Association to see the final report of the Sub-Committee and sign on their behalf. Another member, Shri A.K. Mazumdar, also informed that he would be available on the 15th September, 1986 and would not be in a position to put his signature on the report. He promised to go by the satisfaction of the remaining members signing the report. Shri S. Mann and Shri Ram Kishan have signed the report in token of their having agreed to what the report contains.

QUESTIONS OF THE SUB-COMMITTEE SET UP TO REVIEW THE RECOMMENDATIONS OF THE 4TH CENTRAL PAY COMMISSION ON PARIA MEDICAL STAFF AND OTHER CATEGORIES OF POSTS UNDER THE MINISTRY OF HEALTH AND FAMILY WELFARE INCLUDING THE DIRECTORATE AND ITS SUBORDINATE OFFICES.

Non-Resident Nurses and Lady Health Visitors (Rs. 330-560).

These posts are comparable with those of Pharmacists/
Radiographers for whom the scale of pay of Rs. 1350-2200
has been recommended by the Pay Commission. Further, these
posts have no promotion prospects. A Non-Resident Nurse is
required to possess the same qualification as prescribed for
a Staff Nurse. Though the Non-Resident Nurses are not
required to do night and evening duties, the duties and
responsibilities attached to this post are not less, in other
respects than those of the Staff Nurses. In view of the
qualifications, training, duties and responsibilities attached
to this post, it is suggested that they may also be allowed
the scale of pay of Rs. 1350-2200 as in the case of the
Pharmacists and Radiographers.

Laboratory Supervisor and Technical Supervisor (R. 425-70C).

These posts are comparable with the supervisory posts for nursing staff for whom the scale of pay of Rs. 2000-3200 has been recommended. The supervisory posts in the nursing side are in the fourth tier of promotion starting with A.N.M. in the scale of pay of Rs. 260-490. Similarly, Laboratory Supervisors and Technical Supervisors are in the fourth tier of the laboratory personnel starting with Laboratory Assistant in the pay scale of Rs. 260-430. The intermediary levels in these posts are Laboratory Technician in the scale of pay of Rs. 380-560 and Senior Technician/Technical Supervisor in the scale of Rs. 425-700. The little discrepancy between the scales of pay of Nursing Sisters and Senior Technician is due to merger of messing allowance allowed to the Nursing Sisters by the 3rd Pay Commission. Technical Supervisor's is a highly specialised job; the qualifications laid down for direct recruits for this post are:

Master's Degree in Microbiology with one years' experience
or Bachelors Degree in Medical Laboratory Technology with
three years' experience.

Keeping in view the above, it is requested that the Laboratory Supervisor and Technical Supervisor may be allowed the scale of pay of Rs. 2000-3200.

3) Senior Laboratory Technician, Technical Assistant, Senior Blood Bank Technician, Museum Curator (Lab.) and Research Assistant (Lab.) (a. 425-700).

These posts should be compared with the Nursing Sisters, as both are in the third tier of promotion in the respective cadres. Both these categories are supervisory categories. The nature of job performed by these categories is highly specialised. From the point of view of qualification and experience also a parallel can be drawn with the post of Medico Social Worker for which Bachelor's Degree with two years diploma in Social Work has been prescribed. In the case of the above mentioned five categories, the qualifications laid down, among other things, is M.Sc. in the case of Research

Assistant, and B.Sc. in the case of Technical Assistant, Sr. Laboratory Assistant, Sr. Blood Bank Technician and Museum Curator. In the case of Senior Technician the post is to be filled from Laboratory Technicians having diploma in Medical Technology or B.Sc. with 8 years experience. This experience has been generally prescribed for the other categories also mentioned here. There is thus a strong case for giving them the scale of pay as has been given to the Nursing Sisters and Medico Social Worker, i.e. Rs. 1640-2900.

Senior Technician/Technician, Laboratory Technician, Blood Bank Technician and Senior Laboratory Assistant (Rs. 380-560):

These posts form the first supervisory level in the laboratories in the hospitals and other institutions under the Ministry of Health & F.W. For these posts Bachelor's Degree in Science in the case of direct recruits or Diploma in Medical Laboratory Technology has been prescribed. The nature of job performed by these persons is highly skilled. The Pay Commission in para 11.27 (page 199) have expressed the view that in all Departments the lowest supervisory level should be in the scale of Rs. 1400-2300. Accordingly, these posts should be given that scale. Further, on page 203 of their report under the heading "Laboratory Technicians" in para 11.49 the Commission have recommended the scale of Rs. 1400-2300 for Laboratory Assistants in the Directorate of Marketing and Inspection who are also in the scale of Rs. 380-560 and are recruited as per the same qualifications. It is, therefore, suggested that these posts under the Ministry of Health & F.W. may also be allowed the scale of pay of Rs. 1400-2300.

5) Senior Laboratory Assistant (lower scale), Laboratory Assistant Junior Technician & Media Maker (Rs. 260-430):

The qualifications laid down for these posts are Higher Secondary with Diploma in Medical Laboratory Technology of two years' duration or B.Sc. in some cases. Attention in this regard is invited to para 11.48 (page 203) wherein the Pay Commission have recommended a revised scale of Rs. 1200-2040 for Laboratory Assistants in different organisations under the Railways for whom the recruitment qualification prescribed is Higher Secondary/Intermediate in Science with one years' experience which is definitely lower than that prescribed for the above mentioned categories. Therefore, at least the scale of Rs. 1200-2040 as given to Laboratory Assistants in the Railways should be given to these categories also.

6) Technical Assistant (Rs. 225-308), Laboratory Assistant and Laboratory Attendant (Rs. 210-270):

The qualifications prescribed for recruitment to these posts is Matriculate with Science. The Pay Commission have recommended the scale of Rs. 950-1400 for Laboratory Attendants in the Central Revenue Control Laboratories for whom also the same recruitment qualification of Matriculate with Science is

prescribed. As such, the revised scale of Rs. 950-1400 should also be applicable to these three categories.

7) Store-Keeper (Medical Stores) (Rs. 330-560):

The Store-Keepers are appointed from amongst the senior Pharmacists and their duties and responsibilities are of a more responsible nature. The qualifications prescribed for the Store-keepers in certain cases is Science Graduate which is comparable to the qualifications prescribed for Laboratory Technicians. It is, therefore, desirable that Store-keepers are allowed a scale higher than that recommended for Pharmacists (Rs. 1350-2200) and equal to that of Laboratory Technicians (i.e. Rs. 1400-2300).

8) Stores Superintendent (Pharmacy) (Rs. 425-700):

This is a promotion posts for Pharmacists. The Pay Commission in para 11.82 have recommended creation of a few higher level posts in the pay scale of Rs. 1640-2900 for increasing the promotion prospects of Pharmacists and Radiographers. Since this is an existing post providing for promotion prospects to the Pharmacists, the scale of Rs. 1640-2900 should be made applicable to this post.

9) X-Ray Assistant, Dark Room Assistant, Junior Radiographers (Rs. 260-400):

The qualifications laid down for these posts is Matriculate with one year certificate course in Radiography. These are the feeder posts for Radiographers/X-Ray Technicians for which Rs. 1350-2200 has been recommended by the Pay Commission. While doing so the feeder category had been left untouched. Further, these categories face much greater hazards while on job. This should be duly compensated by giving them the scale recommended for highly skilled Gr. II staff, i.e., Rs. 1200-1800 in para 11.24 of the report.

10) Head Supervisor (Rs. 260-400 and Rs. 260-430):

This post is available in the hospitals and is a supervisory post for Group 'D' employees (Safai Karmacharis, Nursing Attendants, etc.) The qualification prescribed for this post is Matriculate with one year's Sanitary Inspector Certificate Course. This places this category in a position better than the L.D.Cs and comparable with the Telephone Operators for whom revised scales of pay of Rs. 950-1500 and Rs. 975-1600 respectively have been recommended by the Commission. It is, therefore, proposed that this category may be given the scale of pay of Rs. 975-1600 recommended by the Commission for Telephone Operators.

11) Sanitary Inspector, Malaria Inspector and Care Taker (Rs. 330-560)

This is a promotion post for Head Supervisors/Insect Collectors with three years' experience, for which the existing scale is the same as applicable to Pharmacist and Radiographers. The qualifications prescribed for this post are also comparable with the other two posts for which the Commission have recommended the revised scale of Rs. 1350-2200.

P/S.S.M.T. Amritsar.

The same scale may be allowed for the post of Sanitary Inspector, Malaria Inspector and Care-Taker.

12) Sanitary Superintendent (Rs. 425-700):

This should be compared with the Radiographers/X-Ray Technicians which are in the scale of pay Rs. 425-700 for whom the scale of pay of Rs. 1400-2600 has been recommended by the Commission. It is a promotion post for Sanitary Inspectors/Care-Takers who are in the scale of pay of Rs. 330-560.

13) E.C.G. Technicians, Monitoring Technician, Sr. Dental Hygienist, E.E.G. Technician Senior (Rs. 425-700):

These are comparable with posts of X-Ray Technician in the matter of recruitment qualifications as well as duties and responsibilities. Therefore, the revised scale of Rs. 1400-2600 recommended for X-Ray Technicians in the existing scale of Rs. 425-700 may be allowed for these categories also.

14) Cardiographic Technician (Rs. 330-560); E.C.G. Technician, Dental Mechanic, Dental Hygienist, Dental Technician (Rs. 330-560):

These are comparable posts with X-Ray Technicians having more or less the same qualifications and duties. These categories may, therefore, be allowed the same scale of pay as has been recommended for X-Ray Technicians (Rs. 330-560), that is Rs. 1350-2200.

15) Orthoptists and Refractionists:

These two posts are in scales of Rs. 380-560, 380-640 and 425-700 in different institutions under the Ministry of Health and F.W. The qualifications, duties and responsibilities are the same for these posts in various institutions. It is proposed that these posts may be allowed a uniform scale of pay of Rs. 1400-2600 which has been recommended by the Commission for X-Ray Technicians in the scale of Rs. 425-700, as their recruitment qualifications, duties and responsibilities are comparable with those of X-Ray Technicians.

16) Insect Collectors (Rs. 260-350):

It is also a promotion post for Laboratory Attendants (in the scale of pay of Rs. 210-270) for which the Commission have recommended Rs. 950-1400 (para 11.50 page 204). It is, therefore, suggested that the scale of Rs. 975-1540 is allowed to Insect Collector so that it continues to be available as a promotion post for the Laboratory Attendants.

7) Physiotherapists, Occupational Therapists, E.C.T. Technicians, Audiometre Technicians, Psychiatric Social Workers, Orthopaedic Technicians, Technical Assistants (Animal House), Technical Assistants (NTTC), Technical Assistants (Electrical Psychology), Male Health Supervisors, Field Investigators, Demonstrators, Assistant Medical Record Officer, Yoga Instructor, Family Planning Extension Educator (Rs. 425-700 and Rs. 455-700):

As allowed in the case of similar posts in the scale of

...5...

Approved
Jm.
Advocate

AAH. III

- 28 - 5

Annexure-5

NO. B.12011/1/88-Admin.II
DIRECTORATE GENERAL OF HEALTH SERVICES
(SWASTHYA SEWA MAHANIDESHALAYA)
(ADMINISTRATION-II)
(J.C.M. CELL)

18/11/89
7/11/89

Nirman Bhavan,
New Delhi.

2-1-1990

OFFICE MEMORANDUM

Subject:- Minutes of the 3rd Meeting of the Anomalies Committee held on 20-12-1989 at 10.00 A.M. in Nirman Bhavan, New Delhi under the Chairmanship of Additional Secretary (Health).

The undersigned is directed to forward herewith a copy of the Minutes of the Anomalies Committee Meeting held on 20-12-1989 under the Chairmanship of Additional Secretary (Health) for information and necessary action.

13

(R. H. SARDAR)
DEPUTY DIRECTOR ADMINISTRATION

To,

1. All Sub-Offices under the Control of Dte.G.H.S.
2. All D.D.As.
3. All Sections of the Dte.G.H.S.
4. All Members of C.H.E.F.
5. All Members of the Departmental Council.
6. All Recognised Associations/Unions.

Copy (with 75 spare copies) forwarded to Ministry of Health and Family Welfare (J.C.M. Cell).

Copy forwarded for information to:-

- P.S. to Additional Secretary (H)/Addl. D.G. (FH)
- J.S. (V)/ Director (A&V)/D.S. (IF)

[Signature]

Attested
Advocate

Minutes of the 3rd meeting of the Anomalies Committee held on 20.12.89 at 10 A.M. under the Chairmanship of Addl. Secretary (Health).

The 3rd Meeting of the Anomalies Committee was held on 20.12.1989 at 10 A.M. under the Chairmanship of Addl. Secretary(Health).

The following members were present:-

Official Side:

- 1) Shri M.S. Nayal, Addl. Secretary(Health)-Chairman
- 2) Dr. A.K. Mukherjee, Addl. D.G.(PE) - Member
- 3) Shri J. Vasudevan, JS(V) - Member
- 4) Shri P.K. Chatterjee, Director(A&V) - Member - Secretary

Staff Side

- 1) Shri S.R. Das - Member
- 2) Shri Ramkishan - Member
- 3) Shri M.C. Saigal - Member
- 4) Shri S. Jayaraman - Member

DS(IE), official side member of the Committee is not in position at present and no one attended the meeting on his behalf.

The Committee considered the following cases of anomalies presented before it and made the following recommendations.

I) Anomaly in the pay scale of Store-Keeper in C.G.H.S.

The committee after receipt of additional information asked for during its 2nd meeting recommended that since both Storekeepers i.e. Storekeepers with B.Sc. qualifications and Storekeepers with Pharmacy qualifications in C.G.H.S. are performing the same functions/shouldering similar responsibilities, they should have the same scale of pay. The Committee accordingly recommended that Storekeepers having B.Sc. qualifications should also be placed in the pay scale of Rs.1350-2200, after completion of due formalities.

II) Non-resident Nurses/Lady Health Visitors:-

The Committee considered the case with reference to job responsibilities in respect of Non-resident Nurses/Lady Health Visitors and Staff Nurses, and as also the revised and pre-revised scales of pay. After detailed discussions, the Committee was of the view that since duties and responsibilities of Non-resident Nurses/Lady Health Visitors and Staff Nurses are similar, they should be placed in the same pay scale.

Staff Nurses and also their pre-revised scale of pay were not the same, anomaly is not directly as a result of the implementation of the 4th Pay Commission recommendations. In view of this, the Committee did not agree to recommend higher pay scales to non-resident Nurses/Lady Health Visitors.

Since this is one of the Departmental Council items referred to the anomalies committee for consideration, it was decided that the matter be referred back to the Departmental Council for recording disagreement, if necessary.

The Committee however, recommended that opportunities of Study leave be provided to Auxillary Nurses Midwives working in C.G.H.S. to acquire Nursing qualification with a view to helping them to better their career prospects.

III) Laboratory Supervisor & Technical Supervisor:

IV) Senior Technician/Technicians, Laboratory Technicians, Blood Bank Technicians and Sr. Laboratory Assistant

The Committee also considered these cases with reference to job responsibilities and also their revised and pre-revised scales of pay.

Since, the broad functional areas, pre-revised scale of pay of Laboratory Supervisor and Technical Supervisor were quite different as compared to the duties and qualifications of Nursing personnel, the Committee felt that the anomaly is not directly as a result of the implementation of the 4th Pay Commission recommendations and, therefore, it did not recommend higher pay scale for Laboratory Supervisor and Technical Supervisor.

Similarly, the Committee was of the view that the anomaly with regard to Sr. Technician/Technician, Laboratory Technicians, Blood Bank Technician and Sr. Laboratory Assistant was not directly as a result of the implementation of the 4th Pay Commission recommendations and therefore, it did not recommend higher scales of pay for these categories of posts on that ground.

The Committee, however, felt that there was a case for upgradation of the posts of Laboratory Supervisor and Technical Supervisor, Sr. Technicians/Technicians, Laboratory Technicians, Blood Bank Technicians and Sr. Laboratory Assistant and recommended that the case may be built up on the basis of their job responsibilities and qualifications etc. for upgradation of these posts. The Committee further recommended that the feasibility of putting these cases

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III (Contd)
60

of posts in the following Grades are considered while making out case for their upgradation:-

- i) Posts requiring matriculation or equivalent qualification plus one or one and a half years training course (like Laboratory Assistants, Radiographer Assistant) Rs. 975-1540
- ii) Posts requiring matriculation or equivalent qualification plus 2 years diploma/certificate. Rs. 1200-2040
- ✓ iii) Laboratory Technicians Rs. 1400-2300 ✓
- iv) Technical Assistants Rs. 1640-2000
- v) Technical Supervisor/Laboratory Supervisor Rs. 2000-3200

Since these items are the Departmental Council items referred to the Anomalies Committee for consideration, it was decided that these recommendations be reported to the Departmental Council.

V) Anomaly in the pay scale of Sr. Hindi Translators working in S.J. Hospital, New Delhi and in the Department of Official Language.

VI) Anomaly in the pay scale of Jr. Hindi Translators working in S.J. Hospital, New Delhi and in the Department of Official Language.

VII) Anomaly in the pay scale of Extension Educators working in Urban Family Welfare Centres and those working in CGHS.

At the request of the Staff Side, these items were deferred for discussion at the next meeting of the Anomalies Committee.

It was decided that the next meeting of the Committee will be held on 7th February, 1990 at 10.30 A.M.

The Meeting ended with a vote of thanks to the Chair.

DEPARTMENT OF POST: INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL, ASSAM CIRCLE, GUWAHATI-781 001.

No. Staff/28-8/91,

Dated at Guwahati the, 5-7-95,

To,

- 1-2) The SSPOs; Guwahati/Silchar.
- 3) The SPOs; Dibrugarh.
- 4-7) The CMO incharge P&T Dispensary; Panbazar, Guwahati-1/
Dispur, Guwahati-6/Silchar-1/Dibrugarh-1.
- 8-9) The Sr. Postmaster; Guwahati-CPO/Silchar-H.O.
- 10) The Postmaster Dibrugarh-H.O.

Sub:- Gradation List of Para-medical Staff of P&T Dispensaries,
Assam Circle.

Kindly refer to this Office letter of even No. dated 20-3-95
on the above subject under which the G.L. of paramedical Staff of P&T
Dispensaries, Assam Circle (Corrected up to 31-12-93) is circulated.

In the G.L., the scale of Pay of Laboratory Technician may
be read as Rs. 1200-30-1440-30-1800 for SSC and matriculation.

Rs. 1400-40-1600-50-2200-23-60-2600 for B.Sc.
Rs. 1350-30-1440-40-1800-40-50-2200/-

Since it has been revised as per letter No. Est/2-82/93(R15),
dated 02-03-95.

This is for your rectification.

*AKS Ltd.
Advocate*

guel
(I.C. SARMA)
A.P.M.G. (Staff),
O/O the Chief Postmaster General,
Assam Circle, Guwahati-781 001.

DEPARTMENT OF POSTS:INDIA
OFFICE OF THE CHIEF POSTMASTER GENERAL:ASSAM CIRCLE:
MEGHDOOT BHAWAN:GUWAHATI-1.

To,

The I/C of P&T Dispensary,
Panbazar, Dispur, Silchar, and Dibrugarh.
.....

No. 2-82/93(Rlg)

Dated at Guwahati the 02.03.95

Subject:- **Fourth Pay Commission- Revision of pay scales in respect of Group 'B' 'C' and 'D' employees.**
.....

Enclosed please find a photo-copy of Dte's letter No.5-2/88-PCC dt. 24.2.88 regarding the subject on above for your guidance, information and necessary action.

(J.K. Barbhuiya)
A.P.M.G.(Est)
for Chief Postmaster General,
Assam Circle,Guwahati-781001.

Copy to:-

- (1) The Sr. Supdt. of Post Offices, Guwahati and Silchar for information and necessary action.
- (2) The Supdt. of Post Offices Dibrugarh for information and necessary action.
- (3) The A.P.M.G.(Staff) CO/Guwahati with reference to his letter No. Staff/28-8/91 dt. 20.1.95 for information.

for Chief Postmaster General,
Assam Circle,Guwahati-781001.

Copy of the Dte's letter No. as above.

- (1) I am directed to forward herewith a copy of the above subjected employees working in P&T Dispensaries in India.

The receipt of this Memorandum may be acknowledged in the first instance.

Attested
Sur.
Advocate

Sd-
(B.N. SOM)
OSD (PAY COMMISSION)

Revised scales of pay for para Medical Staff of Post & Telegraph Dispensaries

	Present Scale	Revised Scale
<u>Medical Staff</u>		
Card graphers/X-Ray/ Technicians/Pharmacists	330-10-380-EB-12-500-EB-15-560	1350-30-1440-40-1800-EB-50-2200
S.G. diographers/X-Ray Technicians/Pharmacist(S.G)	425-15-560-EB-20-640	1400-40-1600-50-2300-EB-60-2500
X-Ray Technicians	425-15-500-EB-15-580-20-700	- do -
Laboratory Technicians	330-10-380-EB-12-500-15-560	1200-30-1440-EB-30-1800 for SSC and Matriculation
Laboratory Technicians	425-15-500-EB-15-560-20-700	1400-40-1600-50-2300-EB-60-2600 for B.SC.
Auxiliary Nurse & Mid- wife (A.V.M)	(i) 260-6-326-EB-8-350 (ii) 260-6-290-EB-6-326-8-366-EB-8-390-10-400	975-25-1150-EB-30-1540 There will also be a promotional grade in scale of Rs. 1200-30-1660-EB-40-2040 requiring promotion as per normal procedure).
Staff Nurse	(i) 425-15-560-EB-20-640 (ii) 425-15-500-EB-15-560-20-700	1400-40-1600-50-2300-EB-60-2600 - do -
Nursing Sister	(i) 455-15-560-EB-20-700 (ii) 470-15-530-EB-20-650-EB-750 (iii) 550-20-650-25-700	1640-60-2600-EB-75-2600 - do -
Nursing Staff Supervisory)	(i) 550-20-650-25-750 (ii) 550-25-750-EB-30-900 (iii) 650-20-740-35-880-EB-40-950 (iv) 700-30-760-35-900	2000-60-2300-EB-75-3290 - do - - do -
<u>Medical Store Keeper</u>	330-10-380-EB-12-500-EB-15-960	1200-30-1400-EB-30-1800 for B.sc and Non- Technician
Medical Store Keeper	330-10-380-EB-12-500-EB-15-560	1350-30-1440-40-1800-EB-50-2200 for Diploma in pharmacy.

Attchd
Dus.
Advocate

भारतीय डाक विभाग
DEPARTMENT OF POSTS, INDIA

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Annexure-8

From

Senior Postmaster
Silchar-788

Page No. 1

Shri. Lushil K. Kar
Laboratory Technician

Post Office, Silchar-7

संख्या

No. B-2/Silchar, am/ft-12

दिनांक
Dated at

Se-1 the 9-11-95

विषय
Subject

Fixation of pay in S.

C.E.S (Revised Pay) Rule, 1986 - irregular transfer!

On scrutiny your service book, it reveals that your pay has been fixed inadvertently in the Revised Scale of Pay Rs. 14100-40-18000 EB-50-2300/- instead of Rs. 12000-30-14400-EB-30-1800/-, corresponding to your Revised Scale of Pay Rs. 330-10-3800 EB-12-5000/-, which resulted overpayment of pay or allowances amounting to Rs. 14,984/- for the period from 1-10-86 to 31-10-95.

You are, therefore, requested kindly to credit the overpaid amount of Rs. 14,984/- to the Post Office and intimate the particulars thereof, at an early date, when the entire amount will be recovered from your Estt. Pay bills.

Your pay is fixed to Rs. 1410/- on 1-1-86 with 10% DA and 10% DA in the revised scale of pay Rs. 1200-30-1440-EB-30-1800/- and your present pay is Rs. 1710/- on 1-11-95.

प्रमाणित सत्य/MGIP (FU) Signl - Fustall

Senior Postmaster,
Silchar-788 001

Attested
Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 117 of 1996.

Date of Order : This the 15th Day of September, 1998.

Justice Shri D.N. Baruah, Vice-Chairman.

Shri G.L. Sanglyine, Administrative Member.

Sri Sarat Ch. Sarma and 2 others.

All the applicants are Laboratory Technician, P&T Dispensary.

. . . Applicants.

By Advocate S/Shri G.P. Dhowmick, A. Verma and A. Deb Roy.

- Versus -

Union of India & Others.

. . . Respondents.

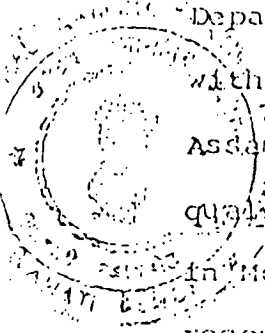
By Advocate Shri S. Ali, Sr. C.G.S.C.

ORDER

G.L. SANGLYINE, ADMINISTRATIVE MEMBER.

The applicants are Laboratory Technicians under the Department of Post and working in the P&T Dispensaries falling within the jurisdiction of the Chief Post Master General, Assam Circle, Guwahati. It has been stated that their academic qualifications are Matriculation with certificate or diploma in Medical Laboratory Technology. According to them after the recommendation of the Fourth Central Pay Commission they were drawing pay in the scale of Rs. 1350-30-1440-40-1800-EB-50-2200/- with effect from 1.1.1989, 27.12.1988 and 1.10.1986 respectively. It is also stated that applicant No. 2, Shri Sushil Kumar Kar, was drawing pay in the scale of pay of Rs. 1400-40-1800-EB-50-2300/-. On the plea of wrong fixation of pay, the respondents had revised the fixation of pay of the applicants and refixed their pay in the scale of pay of Rs. 1200-30-1440-EB-30-1800/- with retrospective effect. This had resulted in overpayments and such overpaid amounts were directed to be recovered from the applicants.

2. According to the respondents they had corrected the fixation of pay of the applicants and placed them in the



*Attended
Shri
Advocate*

correct pay scale on the basis of letter No.5-2/88-PCC dated 24.2.1988 issued by the Directorate regarding revision of pay scales in respect of Group 'B', 'C' and 'D' employees as a result of the recommendations of the Fourth Central Pay Commission. According to the aforesaid letter dated 24.2.1988 there were the following two existing scales of pay of LABORATORY TECHNICIANS, namely -

- (1) Rs.330-10-380-EB-12-500-15-560/- and
- (2) Rs.425-15-500-EB-15-560-20-700/-.

Now the scales of pay of the Medical staff of Post and Telegraph Dispensaries had been revised in terms of that letter and two corresponding new scales had been assigned to the LABORATORY TECHNICIANS according to educational qualifications as follows -

- (1) Rs.1200-30-1440-EB-30-1800 for SSC and Matriculation employees and
- (2) Rs.1400-40-1600-50-2300-EB-60-2600/- for B.Sc. employees.

The applicants are not B.Sc. and, therefore, according to the respondents, they are entitled to the revised scale of pay of Rs.1200-1800/- above in accordance with their educational qualifications.

3. The applicants have submitted this application as they feel aggrieved with the above action of the respondents which, according to the applicants, has resulted in the reduction of their pay. Their main contention in this application is that there should be only one pay scale for the post of LABORATORY TECHNICIAN working in the P&T Dispensaries. Secondly, they should be paid in the scale of pay of Rs.1400-2600/- or alternatively, in the pay scale of Rs.1350-30-1440-40-1800-EB-50-2200/-. Further, that there shall be no refund of the alleged over payments.

4. We have heard Mr C.P. Bhowmick, learned counsel for the applicants and the learned Sr.C.G.S.C, Mr S.Alli. According to the applicants before the 3rd Central Pay Commission the scale of pay of Laboratory Technician was Rs.150-300/-. After the recommendations of the 3rd Pay Commission, the scale of pay was revised to Rs.330-560/-. They were drawing pay in this scale of pay. According to them the Fourth Central Pay Commission however did not assign any scale of pay to the Laboratory Technician. However, categories of staff drawing pay at Rs.330-560/- earlier were given a scale of pay of Rs.1350-30-1440-1800-EB-50-2200/- by the Pay Commission and the applicants were accordingly enjoying the above scale of pay of Rs. 1350-2200/- although there was no scale of pay recommended for them.

Suddenly two scales of pay of Rs.1200-1800/- and Rs.1400-2600/- mentioned above were brought out by the respondents and the applicants were placed in the lower of the two scales of pay. We fail to understand how in spite of the existence of the two pay scales as communicated by letter No.5-2/88-PCC dated

24.2.1988 as mentioned in the Annexure VI letter dated 2.3.1995 the respondents had paid the applicants in the scales of pay of Rs.1350-2200/- and Rs.1400-2300/-. Whatever may be the reason for that, the first consideration in this application is whether the respondents can prescribe two scales of pay, namely,

(1) Rs.1200-1800/- and (2) Rs.1400-2600/-, for LABORATORY TECHNICIAN as conveyed by Annexure VI referred to above. It

appears therein that there were already in existence two scales of pay for the post of Laboratory Technician. Therefore, actually, there is no question at all that two different scales of pay cannot be prescribed. The new factor however is that with the revised scales of pay academic qualifications are attached. The existing pay scale of Rs.330-560/- was

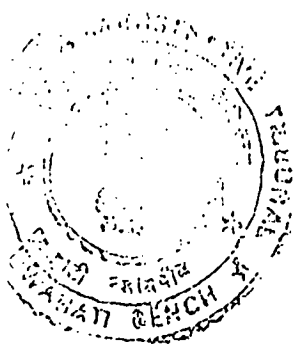
revised to and replaced by a corresponding scale of pay of Rs.1200-1800/- for SSC and Matriculate employees and for the existing pay scale of Rs.425-700/- the corresponding revised scale of pay is Rs.1400-2600/- for B.Sc. employees. There cannot be any doubt that it is within the power of the respondents to assign two different pay scales to the post of Laboratory Technician as above provided the differentiation is not unreasonable or irrational and does not result in discrimination within the purview of Article 14 of the Constitution. In this case the differentiation is based on academic or educational qualification. In *Randhir Singh vs. Union of India & Ors.* reported in AIR 1982 SC 879, it was held :

"It is well known that there can be and there are different grades in a service, with varying qualifications for entry into a particular grade, the higher grade often being a promotional avenue for officers of the lower grade. The higher qualifications for the higher grade, which may be either academic qualifications or experience based on length of service, reasonably sustain the classification of the officers into two grades with different scales of pay. The principle of equal pay for equal work would be an abstract doctrine not attracting Art. 14 if sought to be applied to them."

In *Secretary, Finance Department and others vs. West Bengal Registration Service Association and Others* reported in 1993 Supp(1) SCC 153, it was held :

"It was then submitted that the Third (State) Pay Commission had failed to notice the upward revision of the educational requirement for direct recruitment as Sub-Registrars. It was rightly pointed out that one of the inputs for pay determination is educational requirement for the post. The higher the educational qualification the better would be the quality of service rendered and the end result would in the ultimate be far more satisfactory. That indeed cannot be disputed."

In view of the above there cannot be any argument that the



above two revised scales based on educational qualifications were illegally provided by the respondents. Mr Bhowmick, however, relied on 1993 Supp(1) SCC 153 (supra) to the effect as held by the Hon'ble Supreme Court, that educational qualification is only one of the many factors which has relevance to pay fixation. According to him, the nature of job performed by the applicants as Laboratory Technician is same with that of the job performed by the B.Sc. holder Laboratory Technician. In such circumstances, relying on Union of India & Ors. vs. Santiram Ghosh and others reported in 1989 Supp (1) SCC 68, he submitted that classifying the post into two categories with different pay scales is not sustainable. Since the applicants are doing equal work as being done by the B.Sc. category of employees he submitted the action of the respondents in prescribing two different scales of pay has resulted in discrimination against the applicants. According to law however applicants have to substantiate this claim. In State of Madhya Pradesh and another vs. Pramod Bhartiya and others reported in (1993) 1 SCC 539, it was held :

"It must be remembered that since the plea of equal pay for equal work has to be examined with reference to Article 14, the burden is upon the petitioners to establish their right to equal pay, or the plea of discrimination, as the case may be."

Unlike in 1989 Supp (1) SCC 68 (supra) no effort whatever has been made by or on behalf of the applicants to show before us that the two categories of Laboratory Technician actually perform equal work of same nature or that in the facts obtaining in the case of the applicants there is no justification or necessity to have two categories of Laboratory Technicians with different pay scales. In Secretary, Finance Department and others vs. West Bengal Registration Service Association and others it was held :

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"There can, therefore, be no doubt that equation of posts and equation of salaries is a complex matter which is best left to an expert body unless there is cogent material on record to come to a firm conclusion that a grave error had crept in while fixing the pay scale for a given post and Court's interference is absolutely necessary to undo the injustice."

Both in the submissions of Mr Bhowmik and in the pleadings we do not find any material to justify upsetting the action of the respondents in having two scales of pay for the Laboratory Technician. In the light of the above, we are of the view that there is no reasonable ground to interfere with the action of the respondents with regard to ^{the pay scales of} LABORATORY TECHNICIAN as contained in letter No.5-2/88-PCC dated 24.2.1988 conveyed by letter dated 2.3.1995, Annexure VI.

4. Mr Bhowmik submitted that the applicants are a distinct class of Laboratory Technician. They possess additional qualifications not only because of their experience in the job but also because they ^{are} Matriculates and holders of Diploma/Certificate in Medical Laboratory Technology. They cannot be equated with those Laboratory Technicians whose educational qualification is only SSC passed or Matriculation. In fact, in terms of experience in the job, they are in a better position than the B.Sc. Laboratory Technicians. It is therefore reasonable to place them in a higher scale of pay. We are of the view that the respondents are the appropriate authorities to consider and decide this matter if it is brought before them by the applicants. Therefore, the applicants may, if they desire, submit representations to the competent authority of the respondents in this regard within one month from the date of receipt of this order. If any such representation is received by them, the respondents shall consider the contention of the applicants and issue a speaking order within three months from the date of receipt of the representation.

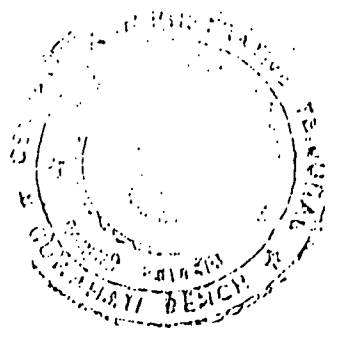
21

6. Mr Bhownick has assailed the orders of refund/recovery of overpayments. As already mentioned hereinbefore, despite the existence of the two pay scales since 1988 the respondents paid the applicants their salary on the basis of other pay scales for a considerable long period and this has resulted in overpayments. They did not inform the applicants about these pay scales and the applicants were led to believe that they had been correctly paid for the services rendered. They had expended the money received by them and to some extent had enjoyed a better standard of living thereby. We are of the view that it will cause considerable financial hardship to the applicants for no fault of theirs ^{if} the overpaid amounts are recovered from them. In the circumstances we direct the respondents to waive recovery of the amounts and to refund the amounts already recovered to the applicants within a reasonable time.

7. The application is disposed of in the lines indicated above. No costs.

Sd/- VICE-CHAIRMAN

Sd/- MEMBER (ADMIN)



Certified to be true Copy

প্রমাণিত প্রতিলিপি

[Signature]

23/9/98
Section Officer (J)

জামুগুণ অফিসারী (সিভিলিয়ান সার্ভিস)
Central Administrative Tribunal

গুৱাহাটী বেন্চ, গুৱাহাটী-৬
গুৱাহাটী - ৭৮১০০৬

Attended
Advocate

To

The Director Postal Service,
Guwahati (Camp at Silchar).

Sub:- Higher scale of pay is not considered as per verdict of the CAT Guwahati against OA No.117 of 1996 filed by Sri Sarat Ch. Sarma & others Two Lab. Technicians P & T Dispensaries, Assam Circle.

Respected Sir,

With due respect and humble submission, I beg to put forth before you a few following lines hoping to get proper justice tempered with mercy.

That Sir, as per verdict of the CAT Guwahati against OA No.117 of 1996, I made the representation dated 12.10.98 to the authority competent to consider the Higher scale of pay within the stipulated period of time. But, in spite of clear decision of the CAT Guwahati, no action was initiated by the authority within three months. Even, a reminder dated 10.05.99 was also issued by me after expiry of the three months. But, till date no tangible action has been taken by the authority regarding fixation of my scale of pay. All the photocopies of the representation, CAT's verdict etc. are enclosed for ready references.

That Sir, it was clearly clarified by the CAT, Guwahati that the scale of pay announced by the 4th CPC for B.Sc. and Matriculate with diploma/certificate holder, Lab. Tech. is discriminatory. Since the nature of job is same. Also, it is clarified that those who are Matriculate diploma/certificate holder Lab. Techs. are more experts, experienced and better persons in the particular branch of technology.

In view of the facts explained above, you are also requested to intervene into the matter personally from its clear perspective so as to enable me to have my legitimate claim as per verdict of the CAT, Guwahati and thus enthuse me to serve the department with utmost sincerity and renewed zeal.

Thanking you Sir in anticipation.

Dated: Silchar
The 13.09 /99.

Yours faithfully,

Sushil K. Kar

(SUSHIL KUMAR KAR)
Laboratory Technician
P & T Dispensary, Itkhola
Silchar-788001 (Assam).

ph 236087

Attended
Advocate.

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Annexure-10(Series)

REMINDER

To
The Postmaster General,
Assam Region
Guwahati.

[THROUGH PROPER CHANNEL]

SUB : SANCTION OF HIGHER SCALE OF PAY OF RS.1400-40-1600-50-2300-BB-60-2600/- OF 4TH CENTRAL PAY COMMISSION AS PER DIRECTION/ORDER OF HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH [VIDE ORDER PASSED IN CONNECTION WITH CA NO.117 of 1996 - SARAT CH.SARMA & TWO OTHERS VS. UNION OF INDIA & OTHERS]

Ref. MY REPRESENTATION DATED 12TH OCTOBER, 1998 TO YOUR ADDRESS IN COMPLIANCE WITH THE DIRECTION/ORDER OF THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Respected Sir,

I have the honour to invite a reference to my Representation dated 12th October, 1998 on the subject captioned above, and extremely regret to submit before your honour that to my utter misfortune, I have not yet either been favoured with the higher Scale of Pay of Rs.1400-2600/- as per the Order of the Central Administrative Tribunal, Guwahati Branch nor I have been informed as to the fate of my Representation. inspite of the fact that the hon'ble Central Tribunal in their Judgement in Case No. 117 of 1996 of Sri Sarat Ch.Sarma & two others held that a B.Sc. Degree holder Laboratory Technician is not, in any way, be termed as a better expert one, rather, a Matriculate Plus Diploma/Certificate in 'MEDICAL LABORATORY TECHNOLOGY' holder Laboratory Technician [like me] is in a better position than a B.Sc. in the equivalent field - and so, fixation of Pay in separate Scale of Pay - one for Matriculate and the other for B.Sc., is discriminatory.

As such, since my legitimate due of Pay Scale of Pay of Rs.1400-2600/- as per verdict of the Central Administrative Tribunal is pending resulting to acute financial hardships and mental agonies, I would, once again, request your honour to be kind enough to sanction the Pay Scale of Rs.1400 - 2600/- at an early date .

Dated Sitchar,
the 10th May, 1999.

Yours faithfully,
Sushil Kumar Kar
[Sushil Kumar Kar,]
Laboratory Technician,
P&T Dispensary,
Sitchar - 782001

*Affected
Sushil
Kar*

To
The Chief Postmaster General,
Assam Circle, Guwahati.

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Annexure-10 (Series)

[THROUGH PROPER CHANNEL]

SUB : PRAYER FOR HIGHER SCALE OF PAY OF RS.1400-40-16-50-2300-EB-60-2600/- OF 4TH C.P.C. - REPRESENTATION IN OBEDIENCE TO DIRECTION/ORDER OF HONOURABLE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH VIDE ORDER PASSED IN CONNECTION WITH OA NO.117 OF 1996 - SARAT CH. SARMA & TWO OTHERS VS. UNION OF INDIA & OTHERS.

Honourable Sir,

Most respectfully and humbly, I would like to place before you the following lines for favour of your kind consideration and valued orders etc.

That Sir, a Laboratory Technician in any PGT Dispensary irrespective of his academic qualification performs the same nature of job. I am a Laboratory Technician under you serving since 7.11.1975 with academic qualification Matriculation plus Diploma/Certificate in Medical Laboratory Technology ; and have been performing duties as prescribed as a Technical personnel and experts in the line to the entire satisfaction of the departmental authority.

That Sir, while discussing the question of status and duties of Laboratory Technician in the Case referred to on the subject, it has been judicially held by the honourable C.A.T., Guwahati that a B.Sc. Degree holder Technician is not, in any way, be termed as a better expert one rather, it is held that a Matriculate plus Diploma/Certificate in 'Medical Laboratory Technology' holder Laboratory Technician (like me) is in a better position than a B.Sc. in the equivalent field [Reference - Annexure-A Extract of Judgement - Para - Copy enclosed for ready perusal]. So fixation of Pay in separate Scale - one for Matriculate and the other for B.Sc. is discriminatory.

So, in compliance with the aforesaid verdict of C.A.T., I am entitled to higher Pay Scale [i.e. same as B.Sc. Laboratory Technician prescribed by the Fourth Central Pay Commission in the field allowing Pay Scale of Rs.1400-40-1600-50-2300-EB-60-2600/- [Reference : Comments of C.A.T. as mentioned in Annexure-A enclosed] as there cannot be anomalies and differentiation in Pay Scale for different persons holding the same post & discharging the same nature of duties .

That Sir, myself is a Matriculate Technician but my added qualification for the post is that I am specially trained for the particular nature of works and duties of the post as an expertise. And the B.Sc. Technician is also doing the same job and performing works which are same in nature, quality and expertise . Higher academic qualification of B.Sc. for 'Laboratory Technician' is only ornamental for the post if not

Contd. to P/2.

Attest
Sub.

- 46 -

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redundant for the job in question.

That Sir, under no provision of Rule and Constitutional provision, there can be two Pay Scales for the same nature of Post, Cadre and Duties - "Equal Pay" for Equal Post is the legality.

In the fitness of facts and circumstances narrated above and in compliance with the C.A.T., Guwahati Branch's directives (Copy of which is enclosed as per Annexure-A), I would pray to your goodself to be kind enough to grant me the Pay Scale of Rs.1400-40-1600-50-2300-88-60-2600/- of 4th C.P.C. for 'Equity & Justice' ; and for this act of your kindness, I shall ever pray.

Enclo : Annexure-A.

Dated Silchar,
the 12th October, 1998.

Yours faithfully,
Sushil Kumar Kar
(Sushil Kumar Kar,)
Laboratory Technician,
P&T Dispensary,
Silchar-2.

Copy to -

The Sr. Superintendent of Post Offices, Cachar Division, Silchar
for favour of his kind information and needful action.

Sushil Kumar

(Sushil Kumar Kar,)
Laboratory Technician,
P&T Dispensary,
Silchar-2.

To

The Chief Post Master General
Assam Circle,
Meghdoot Bhavan, Pan Bazar,
Guwahati-781001

(Through Proper Channel)

Sub : Pay Scale of Laboratory Technician.

Sir,

With due respect and humble submission I beg to lay the following few lines before your honour for your kind and sympathetic considerations:-

That Sir, I have been serving as Laboratory Technician at P & T Dispensary, Silchar, under your kind control since 7.11.1975 and discharging my duties to the full satisfaction of my superiors.

That Sir, consequent upon the revision of pay scales as per the recommendations of the Fourth Central Pay Commission I was placed in the revised scale of Rs. 1400-40-1800-EB-50-2300/- w.e.f 27.12.1988. It is relevant to mention here that as per my professional qualification (i.e. matriculate with Diploma/Certificate in Medical Laboratory Technology) I am entitled to get the higher scale of Rs. 1400-2600/-.

That Sir, subsequently, acting on a letter No. 5-2/88-PCC dated 24.2.1988 of the Directorate, my pay scale was reduced to and re fixed in the scale of Rs. 1200-30-1440-EB-30-1800/- in an unjust and arbitrary manner on the plea that I don't have the B.Sc degree. It is relevant to mention here that I have got professional qualification (i.e. Matric plus Diploma in Medical Laboratory Technology and as such acquired better expertise and skill for the post of Laboratory Technician than a B.Sc. Further I am discharging the same duties and responsibilities which the B.Sc. personnel are doing.

That Sir, following the reduction/re fixation of my pay a lower scale, I approached the Hon'ble Central Administrative Tribunal (CAT) for justice by filing an O.A. No. 117 of 1996. The Hon'ble CAT, after examining the case, passed its judgment and order on 15.09.1998 in O.A. No. 117/96 whereby I was directed to submit representation to your honour within one month of the receipt of the said order and it was

*Alfred
Jain
Advocate*

further directed that my representation so submitted shall be considered and a speaking order would be issued within a period of three months of the receipt of the representation, from your end.

Respectfully,
Yours faithfully,

That Sir, due to your inaction and non-compliance of the order dated 15.09.98 of the Hon'ble CAT, I have been continuously suffering financial loss every month over the past few years and facing extreme financial and mental hardships.

Under the circumstances stated above, I would pray your honour kindly consider my case most sympathetically and issue necessary orders in accordance with the judgment and order dated 15.09.1988 of the Hon'ble CAT expeditiously and for this act of your kindness, I shall remain ever grateful to you. A copy of the order dated 15.09.1988 is appended herewith for your ready reference and kind perusal.

Enclo : Judgment and order dated 15.9.1988

Yours faithfully,
Date : 11.04.2003

(SUSHIL KUMAR KAR)
Laboratory Technician
P & T Dispensary
Silchar-788 001

Handwritten:
Associate

I am currently employed as a Laboratory Technician in the P & T Dispensary, Silchar. I have been employed in this post since 1988. I am a graduate in Medical Laboratory Technology and have been awarded a diploma in the post of Laboratory Technician from a B.Sc. Degree. I am discharging the duties and responsibilities which the Dispensary has entrusted to me.

That Sir, following the reduction/re fixation of pay pay a lower scale approached the Hon'ble Central Administrative Tribunal (CAT) for justice by filing a Petition No. 117 of 1996. The Hon'ble CAT after examining the case, passed the following order on 15.09.1998 on the basis of the facts and circumstances of the case.

- 49 - Annexure - 11

DEPARTMENT OF POST : INDIA
OFFICE OF THE SENIOR SUPDT. OF POST OFFICES
CACHAR DIVISION SILCHAR-788001

Memo No.B1/Promotion/ACP Scheme

Dated at Silchar the 04-12-2000.

In pursuance of Directorate, New Delhi Communication No.22-2/99/PE-I dated 04-01-2000 circulated vide R.O, Guwahati letter No.est/1-107/RP/Rlg/2000 dated 16-05-2000, the following officials of Group 'C' and 'D' category in Para-medical staff working in P&T Dispensary, Silchar are granted the financial up-gradation to the next higher pay scale as per the standard pay scales under ACP scheme.

A. ^{n Completed} The officials who have 24 years of regular service as on 09-08-1999 or up to the period ending 31-12-2000 to be placed in the higher scale as second financial up-gradation.

Sl No.	Name & Designation	Present pay scale	Next higher Scale	Date of effect
1.	Shri Sushil Kr. Kar Lab. Technician	4000-6000	i) 4500-7000 ✓ ii) 5000-8000	i) 09-08-99 - 12 ii) 06-11-99 - 24 ACP

B. The officials who have completed 12 (Twelve) years of regular services (that less than 24 years service) as on 09-08-99 or up to the period 31-12-2000 to be placed in the next higher pay scale as first financial up-gradation.

Sl No.	Name & Designation	Present pay scale	Next higher Scale	Date of effect
1.	Shri Kumaresh Sinha Pharmacist-C-Storekeeper	4500-7000	5000-8000	09-08-99
2.	Sri Brojeswar Das Pharmacist-C-Storekeeper	4500-7000	5000-8000	09-08-99
3.	Smti Phirthingkim Hmar Staff Nurse	5000-8000	5500-9000	04-10-99
4.	Shri Nabendu Barbhuiya Dresser	2650-4000	2750-4400	4-10-99
5.	Archana Dutta Choudhury Female Attendant	2550-3200	2610-3540	4-10-99

The placement of the above officials to the higher grade has no relevancy with the change in the seniority position in the gradation list, and also they will retain their present designation without conferring any privileges related to higher Status. On other words there will be no change in their present seniority position in the gradation list and in present designation.

-2:-

*Alister
Jaw.
Associate*

- 30 -

The financial upgradation under the scheme will be given without creating new posts for the purpose. In the absence of defined hierarchical promotional grades in the cadre/category, the standard/common pay scales will be made applicable for the purpose of placement of officials in the next higher grade.

The official who has put in 24 years of service without a regular promotion as on 9-8-99 shall be allowed two upgradations as per the clarification No. 17 of Directorate's letter dated 25-4-2000.

In case any disc./Vigilance case is pending/Contemplated or punishment is current against any of the above officials the matter should be reported to this office immediately and such official should not be placed in the next higher grade without obtaining specific orders from this office.

An opportunity to exercise option as per Directorate's communication No. 1-11/81-PAP(Pt) dtd.2.3.88 and FR-22(1) and GOIs (9) and (40) thereunder may be given.

The fixation of pay on placement of the officials to the higher grade should be made as per FR 22(1) (a) (I) and Directorate's instructions issued from time to time.

Sde

(I. C. SARMA)
Sr. Supdt of Post Offices
Cachar Dn. Silchar-788001

Copy to:-

1. The Postmaster General(Staff) Assam Region, Guwahati w/r No. Staff/1/69-1/00 (RD) dated 21-8-00
2. The Sr. Postmaster Silchar, H.O. for information and necessary action.
3. The CMO P&T Dispensary, Silchar.
- 4-9) Officials concerned.
- 10-15. P/Fs of the Officials
- 16-17. Spare.

per
Sr. Supdt of Post Offices
Cachar Dn. Silchar-788001

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Annexure-12

DEPARTMENT OF POSTS : INDIA
OFFICE OF THE POSTMASTER GENERAL, DIBRUGARH REGION
DIBRUGARH - 786001

alt ✓
To
The Supdt. of Post Offices
Cachar Division
Silchar - 788001

NO :- AP/RP/31-2/92

Dated at Dibrugarh the 09.05.2003.

Sub :- Representation dated 11.04.2003 preferred by Sri S.K. Kar, Lab. Technician,
P&T Dispensary, Silchar.

Kindly find herewith a copy of representation of Sri S.K. Kar, Lab. Technician,
P&T Dispensary, Silchar & its enclosures for taking necessary action at your end.

In this regard, this office letter of even number dated 24.02.2003 may kindly be referred to. You may kindly inform to Sri S.K. Kar, Lab. Technician, P&T Dispensary, Silchar that the representation of the Lab. Technicians i.e. Sri Sarat Ch. Sarma and two others, in term of the CAT Guwahati order dated 15.09.98 Passed in O A NO-117 of 1996, have already been disposed off as per Dte's letter No.8-1/95-PE-I dated 01.10.97. As per this Dte's letter, the Pay scale of Lab. Technician of P&T Dispensary will be Rs.1200 - 2040/- w.e.f. 01.01.86. A copy of this Dte's letter enclosed herewith for information.

Regarding waiver of recovery of over payment of Pay and allowances, the case is under examination in the Directorate. No decision for waiver of recovery of over payment has been received from the Directorate.

Encl:-As stated above.

(A.B. Seal) 15/5/2003
ADPS (A/Cs)

O/o the Postmaster General
Dibrugarh Region, Dibrugarh-786001.

Attended
Smt.
Advocate

MR Gupta

IMMEDIATE

No. 8-1/95-PE.I
Government of India
Ministry of Communications
Department of Post

Lak Bhavan,
Sansad Marg,
New Delhi-110 001.

Dated: 1/10/97

To

1. All Chief Postmasters General.
2. All Postmasters General (Region).

Subject: Regarding pay scales of Lab. Technicians
working in P&T Dispensaries.

✦ ✦ ✦

Sir,

I am directed to say that as per the Recruitment Rules of Lab. Technicians issued vide erstwhile P&T Board Notification No. 29-1/79-NCG dated 18/12/80, the prescribed essential qualification for recruitment to the post of Lab. Technicians was prescribed as Matriculation with Diploma in Medical Laboratory Technology with at least one year's experience in Laboratory work or Science Graduate in Group 'B' stream. The pay scale for the post was prescribed as Rs. 330-560/-. On implementation of the recommendations of the 4th Central Pay Commission, some of Circles erroneously fixed the pay of the Lab. Technicians in the scale of Rs. 1350-2200/- (instead of fixing in the pay scale of Rs. 1200-2040/- which was the replacement scale of erstwhile pay scale of Rs. 330-560/-).

2. In one of the recent judgements a C.A.T. has directed the Department to rectify the above error. Accordingly, it is hereby directed that the pay of Lab. Technicians of P&T Dispensaries may be fixed in the scale of pay of Rs. 1200-2040/- with effect from 1/1/86, if not done already. Over payments made upto 30th September 1997 may be calculated official-wise and year-wise and intimated to this Directorate for further instructions in the matter.

Con td.....2/-

Master
Jas.
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3. It is requested that necessary action in this regard may be taken and compliance reported to this Directorate immediately.

4. Please acknowledge receipt by return mail.

Yours faithfully,

(S.R. Meena)
Asstt. Dir. General (Estt.)

11/10/97

3 OCT 2011

गुवाहाटी न्यायपीठ
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

File in Court on 3/10/07

Court Officer.

In the matter of:

O.A. no.324/06

Sri Sushil Kumar Kar

...Applicant

-Vs-

Union of India and ors

...Respondents

-AND-

In the matter of:

Written statement on behalf of
the respondents.

(WRITTEN STATEMENT ON BEHALF OF THE RESPONDENTS)

I, Sri Amarendra Son son of Lt. Abenoy Kr. Son presently working as ^{^Sr} Superintendent of Post Offices, Cachar Division, Silchar in the district of Cachar, do hereby solemnly affirm and state as follows :-

1. That I am the Superintendent of Post Offices, Cachar Division, Silchar. I have been impleaded as party respondent no.5 in the above application. The copies of the aforesaid application have been served upon the respondents including me. I have gone through the same and have understood the contents thereof. I am acquainted with the facts and circumstances of the case thereof. Being authorized I am competent to file this written statement on behalf of all respondents.

2. That I do not admit any of the averments except which are specifically admitted hereinafter and the same are deemed as denied.

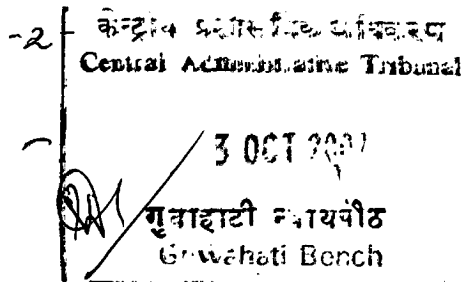
3. That the applicant Sri Sushil Kumar Kar is a matriculate and completed the 'Certificate Course' of Laboratory Technician in the erstwhile P & T dispensary, Dibrugarh in the scale of pay of Rs.330-10-380-E3-12-500-EB-15-560 with effect from 02.11.1975, vide order dated 21.10.1975.

Filed by:-
The Respondents
Through Dns
Mamun Das
Sd/- E.G.S.C
eAT, Guwahati
Amarendra Son. 3/10/07

Sd/- Supdt. of Post Offices.

Cachar Dn. Silchar-788001

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Thereafter he was transferred and he joined as Laboratory Technician Postal Dispensary, Silchar on 29.03.86 and has been working as such.

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4. As per Government of India's decision there are two different scales of pay for Laboratory Technician i.e.

- (1) Higher scale of pay for B.Sc with qualification for Laboratory Technician and
- (2) Lower scale of pay for Matriculation/SSC with technical qualification for Laboratory Technician.

5. The applicant is a matriculate plus having the certificate course in Laboratory Technicianship and in view of the above decision he is entitled to the lower scale of pay but by mistake his pay and other admissible allowances for a certain period were drawn and disbursed by Drawing and Disbursing Authority (DDA) in higher scale of pay. As soon as the mistake came to light the Disbursing Authority, started drawing and disbursing his pay in lower scale of pay as appropriate for the applicant.

Further he was directed to refund the overdrawn amount to the Government.

6. Prior to introduction of two different pay scales on the basis of the academic qualification there is a single pay of scale for all Laboratory Technician irrespective of their general qualification. But as and when the two different pay scales were introduced i.e. (I) Matriculate/equivalent and (II) B.Sc, the applicant naturally found his place in the lower scale of pay by virtue of his qualification.

7. As per 3rd Central Pay Commission and accepted by the Government of India, the applicant's scale of pay was being Rs.330-560 and the same was due to be fixed in the scale of Rs.1350-2200/- as appeared in sub-clause

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1 of the Annexure-1(series) to the Original Application. But by mistake and oversight of DDA the scale of the applicant was fixed at Rs.1400-2300/-

8. That the Para medical staff raised objection in respect of the single pay scale by the 4th CPC and accordingly the Government of India, Ministry of Health and Family Welfare, New Delhi set up an Anomalies Committee to review and recommend on the pay structure of Para medical staff. The 3rd (final) meeting of the Anomalies Committee was held on 20.12.89 and submitted their recommendation in respect of each cadre of the Para medical staff. The recommendation made by the 'Anomalies Committee' is as follows:-

“ The Committee was of the view that the anomaly with regard to Sr. Technician/ Technician, Laboratory Technicians, Blood Bank Technician and Sr. Laboratory Assistant was not directly as a result of the implementation of the 4th Pay Commission recommendations and therefore, did not recommend higher scales of pay of this categories of post on that ground.”

The Committee however felt that there was a case for upgradation of the post of Laboratory Supervisors and Technical Supervisors, Senior Technicians, Technicians, Laboratory Technician, Blood Bank Technicians and Senior Laboratory Assistant and recommended that the case may be built up on the basis of their job responsibilities and qualifications etc for upgradation of these posts. The Committee further recommended that the feasibility of putting of these categories of posts in the following grades be considered while making the case for their upgradation:-

i) Posts requiring matriculation of equivalent qualification plus one or one & a half year training course (Like Laboratory assistant, Radiographer Assistant)

Rs.975/- - 1540/-

ii) Posts requiring matriculation and equivalent qualification plus

Rs.1200/- - 2040/-

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2 years diploma/certificate

iii) Laboratory Technicians

Rs.1400/- - 2300/-

iv) Technical Asstt.

Rs.1640/- - 2900/-

v) Technical Supervisor/ Laboratory
Supervisor".

Rs.2000/- - 3200/-

9. Above recommendation made by the Anomalies Committee was forwarded to the 4th Pay Commission and the fourth CPC had accepted the following pay scales for the Para-medical staff of P&T Dispensaries.

"Laboratory Technicians = 1200-30-1440-EB-30-1800
for SSc and matriculation.

Laboratory Technicians = 1400-40-1600-50-2300-EB-60-2600
For B.Sc."

(Revised scales of other categories of staff not furnished since the O.A. related to Laboratory Technicians only).

10. That the applicant is an employee of the Department of Post India and as such he is due to be placed in the proper scale of pay with matriculation as per fixed norms. Hence he is entitled to get only approved pay scale of Rs.1200-1800/-.

Further a Matriculate Laboratory Technician cannot claim to be paid in the scale of pay, approved for B.Sc Degree holders, although the nature of work is same for both of them.

11. Reply to the facts of the case.

11.1. That with regard to the statements made in paragraphs 4.1 and 4.2 of the application the humble answering respondent has nothing to make comment on it as they are being matters of records of the case.

11.2. That with regard to the statements made in paragraph 4.3 of the application the humble answering respondent begs to state that the applicant was a matriculate/ HSLC passed and having completed the 'Certificate

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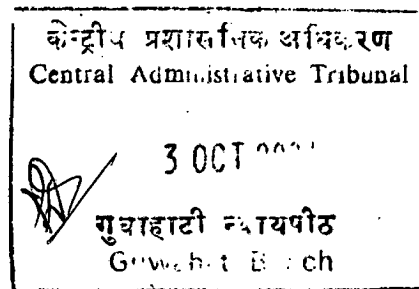
Course' of Laboratory Technician and was appointed as Laboratory Technician in the erstwhile P & T Dispensary, Dibrugrah in the scale of pay of Rs.330-560 with effect from 07.11.75. On being transferred from the erstwhile P&T Dispensary, Dibrugarh, Sri. Sushil Kumar Kar joined as Laboratory Technician, Postal Dispensary, Silchar on 29.03.1986 and still continuing as such. Since the applicant is a Laboratory Technician of the department of Post, the scales of pay, of other Para Medical Staff has perhaps no relation with the pay scale of Laboratory Technician. The pay scale of the Laboratory Technician (Laboratory Assistant) in the scale of Rs.330-560/- was recommended to be revised and refixed in the scale of Rs.1350/-2200/- by the 4th CPC.

11.3. That with regard to the statements made in paragraphs 4.4 of the application, the humble answering respondent begs to state that it is not correct that the applicant was appointed in the scale of Rs.330-580/- but in the scale of Rs.330/-560/-. Hence it is not a fact that his pay is fixed at Rs.1400-2300/-.

The scale of pay of the applicant being Rs.330-560/- as per 3rd CPC, the same was due to be fixed in the scale of Rs.1350-2200/-. However by mistake the same was fixed at Rs.1400-2300/-.

11.4. That with regard to the statements made in paragraph 4.5 of the application, the humble answering respondent begs to state that the Para Medical Staff side raised objection in respect of single pay of 4th CPC and the Government of India, Ministry of Health and Family Welfare, New Delhi had set up an Anomalies Committee to review and recommend the pay structure of Para Medical Staff.

Accordingly an Anomalies Committee was constituted with Additional Secretary to the Government of India, Family Welfare as its Chairman, 3 members from the Administrative side and 4 members from the staff side and the Committee in its 3rd (final) meeting held on 20.12.89, submitted their recommendation in respect of each cadre of Para Medical



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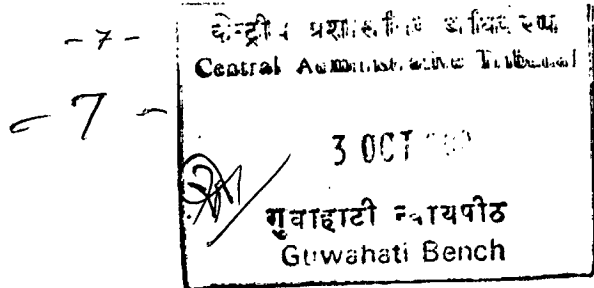
Staff, in respect of pay scale of Laboratory Technician and the recommendation made by the committee is as follows:

“The Committee was of the view that the anomaly with regard to Sr. Technician/ Technician, Laboratory Technicians, Blood Bank Technician and Sr. Laboratory Assistant was not directly as a result of the implementation of the 4th Pay Commission recommendations and therefore, did not recommend higher scales of pay of this category of post on that ground.”

The Committee however felt that there was a case for upgradation of the post of Laboratory Supervisors and Technical Supervisors, Senior Technicians, Technicians, Laboratory Technician, Blood Bank Technicians and Senior Laboratory Assistant and recommended that the case may be built up on the basis of their job responsibilities and qualifications etc for upgradation of these posts. The Committee further recommended that the feasibility of putting of these categories of posts in the following grades be considered while making the case for their upgradation:-

- | | |
|--|--------------------|
| i) Posts requiring matriculation of equivalent qualification plus one or one & a half year training course (Like Laboratory assistant, Radiographer Assistant) | Rs.975/- - 1540/- |
| ii) Posts requiring matriculation and equivalent qualification plus 2 years diploma/certificate | Rs.1200/- - 2040/- |
| iii) Laboratory Technicians | Rs.1400/- - 2300/- |
| iv) Technical Asstt. | Rs.1640/- - 2900/- |
| v) Technical Supervisor/ Laboratory Supervisor. | Rs.2000/- - 3200/- |

Further the above recommendation made by the Anomalies Committee was forwarded the 4th Pay Commission and the IV CPC had accepted the following pay scales for the Para-medical staff of P&T Dispensaries.



“Laboratory Technicians = 1200-30-1440-EB-30-1800
for SSc and matriculation.
Laboratory Technicians = 1400-40-1600-50-2300-EB-60-2600
For B.Sc.”

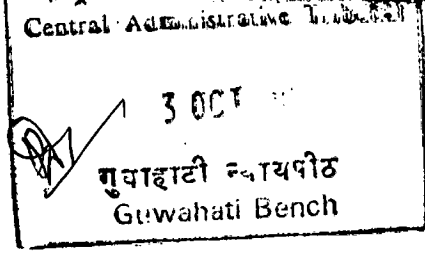
✓ Anandura Som
Sr. Supdt. of Post Offices.
Cachar Dn. Silchar-788001.

11.5. That with regards to the statements made in paragraph 4.6 of the application, the humble answering respondent begs to state that prior to introduction of different pay scales on the basis of academic qualification there was a single scale of pay for all Laboratory Technician irrespective of their general qualification. But as and when the two different scales of pay was introduced for (1) matriculate/ Equivalent and (2) B.Sc, the applicant naturally had to be placed in the lower appropriate scale of pay.

11.6. That with regards to the statements made in paragraph 4.7 of the application, the humble answering respondent begs to state that the applicant is an Employee of Department of Posts India and as such he is due to be placed in the proper scale of pay as applicable to him.

11.7. That with regards to the statements made in paragraph 4.8 of the application, the humble answering respondent begs to state that the example cited by the applicant in respect of other category of Para Medical staff infact has no relevancy, as those have no separate pay scales like Laboratory Technician of the Department of Posts. Because in this department the pay scales are made on the basis of academic qualification. In view of the qualification of the applicant as being Matriculate his pay scale should be fixed as per recommendation, made by the Anomalies Committee and as accepted in the 4th Pay Commission for the category of Laboratory Technician of Para Medical Staff of P& T Dispensaries.

11.8. That with regards to the statements made in paragraph 4.9 of the application, the humble answering respondent begs to state that as per the recommendation of the Anomalies Committee and as accepted in the 4th



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CPC and approved by the authority the two different scales of pay for the Laboratory Technician were prescribed on the basis of academic qualification for Para Medical Staff of P and T dispensaries as follows:-

“Laboratory Technicians = 1200-30-1440-EB-30-1800
for SSc and matriculation.

Laboratory Technicians = 1400-40-1600-50-2300-EB-60-2600
For B.Sc.”

The existing of pay scales of Rs.330-560/- was revised and replaced by a corresponding scale of pay of Rs.1200-1800/- for SSc/Matriculate employees and for the scale of Rs.425-700/- the corresponding revised scale of pay of Rs.1400/- 2600 for B.Sc employees.

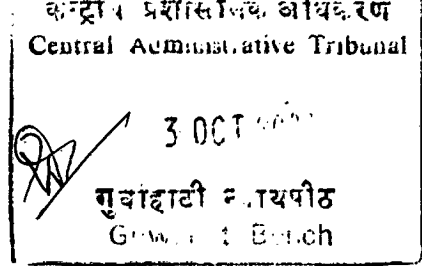
In the O.A. 117/96, earlier filed by the applicant this Hon'ble Tribunal vide order dated 15.09.98 in paragraph 4 observed as follows:-

“There cannot be any doubt that it is within the power of the respondents to assign two different pay scales to the post of Laboratory Technician, as above provided the differentiation is not unreasonable or irrational and does not result in the discrimination within the purview of Article 14 of the Constitution.”

Further in compliance of this Hon'ble Tribunal's order dated 15.09.06 the recovery of the excess amount was not made from the pay of the applicant.

11.9. That with regards to the statements made in paragraphs 4.10 to 4.14 of the application, the humble answering respondent reiterates and reaffirms the statement made in paragraph 11.4 of this written statement.

Further begs to state that as accepted by the Commission and as per latest position the two scales of pay of Laboratory Technician, on the basis of general educational qualification, is in existence and superceded all previous orders.



Further this Hon'ble Tribunal vide order dated 15.09.98 in Original Application no.117/96 filed by the applicant was pleased to observe that

"There cannot be any doubt that it is within the power of the respondents to assign two different pay scales to the post of Laboratory Technician as above provided the differentiation is not unreasonable or irrational and does not result in the discrimination within the purview of Article 14 of the Constitution."

Further it is stated that the two scales of pay mentioned in the two scales of pay mentioned in the circular dated 05.07.95 annexed as Annexure 6 to the Original Application is correct which is based on the acceptance by the Government of India of the recommendation of the Anomalies Committee of the 4th CPC.

11.10. That with regards to the statements made in paragraphs 4.15, 4.16 and 4.17 of the application the humble answering respondent reiterates and reaffirms the statement made in paragraph 11.4 of this written statement. However the answering respondent begs to state that in view of the recommendation of the Anomalies Sub-Committee set up by the Government of India as per demand of the staff side and the recommendation as accepted in the 4th CPC the pay scales for the Para Medical Staff of P&T Dispensaries was circulated for the Laboratory Technicians on the basis of academic qualification for SSc/matriculate and for B.Sc.

The pay scale of the applicant earlier fixed and disbursed by the Disbursing Authority was in mistake and an oversight of the DDA. Hence there is no question of the arbitrary reduction of pay scale.

Further in compliance to the Hon'ble Tribunal order dated 15.09.98 the recovery of the excess paid from the applicant was not made.

11.11. That with regards to the statement made in paragraph 4.18 of the application the humble answering respondent reiterates and reaffirms the statements made in paragraph 11.8 of this written statement.

Further the applicant's representation dated 11.04.03 has been disposed of by the authority and accordingly intimated to the applicant.

11.12. That with regards to the statements made in paragraph 4.19 of the application the humble answering respondents begs to state that as per the scheme of ACP the applicant was granted 1st and 2nd financial upgradation.

11.13. That with regards to the statements made in paragraph 4.20 of the application the humble answering respondent begs to state that the representation of the applicant was considered by the appropriate authority and as per the accepted recommendation in 4th CPC made by the Anomalies Committee set up on 20.12.89 and as proved by the Government the two revised pay scales for Laboratory Technician of the Para Medical Staff of P&T Dispensaries was prescribed on the basis of the academic qualification. The applicant being the matriculate his pay scale can never be at par with B.Sc Degree Holders.

Further the decision of the authority has also been intimate to the applicant which appears in the Annexure 12 of the O.A.

Further the prayer for waiver of recovery of excess paid amount is still under consideration of the appropriate authority.

11.14. That with regards to the statements made in paragraph 4.21 of the application the humble answering respondent begs to state that the applicant has been serving in the department of post, India, (erstwhile P&T Department) and he had joined his department on the conditions prevailing in this department. He, cannot therefore, cite the example of other department/hospital etc.

11.15. That with regards to the statements made in paragraph 4.22 of the application the humble answering respondent reiterates and reaffirms the statements made in paragraph 11.4 of this written statement.

11.16. That with regard to the statements made in paragraphs 4.23 of the application the humble answering respondent begs to state that what was advertised later on perhaps before the introduction of two separate scales of Metric and Degree holders and cannot be cited as an example for claiming higher pay scale.

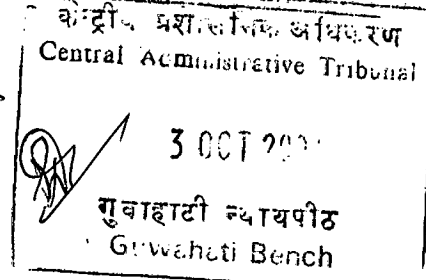
11.17. That with regards to the submissions made in paragraphs 4.24 to 4.25 of the application the humble answering respondent begs to submit that his representation was disposed of by taking into account of the existing prescribed norms of pay scale for Laboratory Technician. Further the applicant is being paid monthly salary in the appropriate scale of pay and as such there is question of monetary loss or sufferance.

12. Reply to the grounds of the case.

12.1. In response to the ground 5.1 of the application the humble answering respondent begs to submit that there are no separate pay scales for any other category of the Para Medical Staff excepting in Laboratory Technicians of P & T Dispensaries which are based on academic qualification.

12.2. In response to the ground 5.2 of the application the humble answering respondent has nothing to make comment on it. However he stated that so far the scale of Rs.1400-2300/- for the post of the Laboratory Technician, recommended in the 4th Pay Commission is concerned i.e. for other Technicians of P&T Dispensaries as the pay scale of the Laboratory Technician are categorized in into two on the basis of academic qualification.

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12.3. In response to the ground 5.3 of the application the humble answering respondent begs to submit that the scale mentioned are not applicable to the applicant as the Laboratory Technician of the Para Medical Staff in the Department of Post are made on the basis of academic qualification.

12.4. In response to the ground 5.4 of the application the humble answering respondent begs to submit that the representations are disposed of and accordingly he was communicated. As per the acceptance of the 4th Pay Commission and approved by the Government of India the two revised pay scales for Laboratory Technicians for Post, P & T Dispensaries was prescribed on the basis of academic qualification. As the applicant is matriculate he is entitled to pay scale of Rs.1200-1800/-.

12.5. In response to the ground 5.5 to 5.7 of the application the humble answering respondent begs to submit that the two revised pay scale was prescribed as per the academic qualification and the same are accepted and approved by the Government of India.

12.6. In response to the ground 5.8 of the application the humble answering respondent begs to submit that there is no violation of the principal of natural justice at all.

12.7. That the answering respondent begs to submit that the instant writ petition has no merit at all and is liable to be dismissed.

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VERIFICATION.

I, Sri Amarundra Som, s/o Sri At. Abinay. Kr. Som... presently working as ^{^Sr} Superintendent of Post Offices, Cachar Division, Silchar in the district of Cachar do hereby verify that the statements made in paragraphs 1, 2, 4, 6, 10, 11, 11, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 are true to my knowledge; those made in paragraphs 3, 5, 7, 9, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 are being matters of records of the case derived therefrom which I believe to be true and the rests are my humble submission before this Hon'ble Tribunal.

I have not suppressed any materials facts thereof.

And I sign this verification on this the....18th....day of Sept.....2007.

✓ Amarundra Som
DEPONENT

Sr Supdt. of Post Offices.
Cachar Dn. Silchar-788001

FORM No. 1
(See Rule 62)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

O.A./R.A./C.P/M.A/ET/ 324 / 06

Sri Smshil K. Kar Applicant(s)

M.O. I. Pers. -VS- Respondant(s)

M E M O OF APPEARANCE

I, Smt. Manjula Das having been authorised
The Ministry of Law
(here furnish the particulars of authority)

by the Central/~~State~~ Government/~~Government~~ Servant/.....Authority/
corporation/Society notified under Sec. 14 of the Administrative
Tribunals Act, 1985, hereby appear for applicant No...../ Respondant
No..... and undertake to plead and act for them in all matters in
the aforesaid case.

Place: Guwahati
Date:- 12th Dec' 07

Manjula Das
Asstt. C.G.S. & C.
Signature and Designation of the
Counsel.

Address of the Counsel for Service.