

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 473 of 2004

this the 22nd day of November 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Manohar Vaze, S/o. late Shri Shankar Vaze,
Aged 64 years, Cashier (Retired), Centre for
Advanced Technology, Indore, r/o. 40, Narmada
Nagar, Flat No. 102, Abhinav Apartment,
Annapurna Road, Indore. Applicant

(By Advocate – Shri D.M. Kulkarni)

V e r s u s

1. Union of India, through Secretary,
Department of Atomic Energy,
Anushakti Bhawan, Chatrapati Shivaji
Marg, Mumbai.
2. Director, Centre for Advanced
Technology, Rajendra Nagar, Indore.
3. Chief Administrative Officer, Centre
for Advanced Technology, Rajendra Nagar,
Indore. Respondents

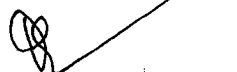
(By Advocate – Shri Umesh Gajankush)

O R D E R

By Madan Mohan, Judicial Member –

By filing this Original Application the applicant has claimed the following main reliefs :

“8.1 it be held that the applicant is entitled to upgraded pay scale of Rs. 5000-150-8000/- w.e.f. 1.1.1996 while he was working on the post of Cashier and the respondents be mandated to revise his pay scale from Rs. 4500-125-7000/- (S-8) to Rs. 5000-150-8000/- (S-9) w.e.f. 1.1.1996 as done to other corresponding pay scale of the equivalent posts by the respondents,



8.2 it be held that the applicant is entitled to arrears of pay scale 5000-150-7000/- w.e.f. 1.1.1996,

8.3 interest on arrears of salary at the rate as deemed proper and costs of the petition be kindly decreed."

2. The brief facts of the case are that the applicant was appointed on 10.6 1973 in the Heavy Water Project on the post of UDC in pay scale of Rs. 4000-7000/- He was granted promotion on the post of Cashier on 31.5.1985 in the pay scale of Rs. 4500-7000/-, under respondent No. 2. The recommendations of the Vth Pay Commission were made applicable with effect from 1.1.1996. The applicant was granted the pay scale of Rs.4500-7000 with effect from 1.1.1996. Similarly, Senior Clerk, Accounts Assistant, Stores Keeper, Jr. Hindi Translator who were also in the pay scale of Rs. 1400-2300/- under the respondents were granted the scale of Rs. 4500-7000/- under the CCS Revised Pay Rules, 1997 w.e.f. 1.1.1996. The respondents subsequently vide OM dated 1.7.1998 revised/upgraded the various grades of Administrative/auxiliary posts from S-8 to S-9 pay scale i.e. Rs. 4500-7000/- to Rs. 5000-8000/-. Accordingly, all the corresponding pay scales such as of Senior Clerk, Accounts Assistant, Welfare Assistant, Publicity Assistant, Purchase Assistant, Stores Keeper and Jr. Hindi Translator except the pay scale of the post of Cashier have been revised from Rs. 4500-7000/- to Rs. 5000-8000/-. Again the respondents vide OM dated 14.10.1998 also revised the pay scale of Assistant Security Officer from Rs. 4500-7000/- to Rs. 5000-8000/- which was also the corresponding pay scale of the post of Cashier. The applicant also requested for grant of pay scale of Rs. 5500-9000/- instead of Rs. 5000-8000/- under the ACP Scheme. But when the respondents have not acceded to the request of the applicant he filed OA No. 394 of 2000 before this Tribunal and the Tribunal vide order dated 4.9.2003 directed the respondents to place him in the pay scale of Rs. 5500-9000/- with effect from 9.8.1999 in terms of ACP scheme. The Tribunal also granted liberty to the applicant to agitate the other reliefs

separately. The applicant has therefore, filed this application for direction to the respondents to grant pay scale of Rs. 5000-8000/- to the applicant with effect from 1.1.1996 and for arrears and interest thereon. Several representations were made but these were not heard. The applicant has retired on attaining the age of superannuation on 31.10.2000 from the post of Cashier. Hence, he has filed this OA.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.

4. It is argued on behalf of the applicant that the corresponding pay scales of Senior Clerk, Accounts Assistant, Welfare Assistant, Publicity Assistant, Purchase Assistant, Stores Keeper, Jr. Hindi Translator except the pay scale of the post of Cashier have been revised from Rs. 4500-7000/- to Rs. 5000-8000/-. The respondents vide letter dated 14.10.1998 has also revised the pay scale of Asstt. Security Officer from Rs. 4500-7000/- to Rs. 5000-8000/- which was also the corresponding pay scale of the post of Cashier. When the applicant was not heard by the respondents he filed OA No. 394/2000 and the Tribunal disposed of the said OA by passing the order dated 4.9.2003 and giving opportunity to the applicant to agitate the other reliefs separately. The applicant filed several representations before the respondents but it was unheard and he retired from the post of Cashier on 31.10.2000 on attaining the age of superannuation. Till now the respondents have not exceeded to the relief claimed by the applicant. Hence, the applicant is entitled for the reliefs claimed by him.

5. In reply it is argued on behalf of the respondents that initially the applicant was appointed as Upper Division Clerk. Consequent on his selection for the post of Cashier in the pre-revised scale of Rs. 1400-2300/-, the applicant joined the Centre for Advanced Technology, Indore w.e.f. 31.5.1985. The scale of pay of Cashier was revised to Rs. 4500-7000/- with effect from 1.1.1996 on the recommendation of the Vth



Central Pay Commission. At that time the scales of pay of Cashier and that of Senior Clerk, Assistant Accountant, Welfare Assistant, Publicity Assistant, Store Keeper, Junior Hindi Translator were all identical. After considering the recommendations of the A.K. Anand committee the Department vide OM dated 1.7.1998 had revised the pay scales of certain posts. However, the post of Cashier being an isolated post, the same was not included for further revision. The representation of the applicant dated 30.9.1999 in that regard was rejected by the respondents vide communication dated 10.2.2000 on the ground that the post of Cashier had been declared as a wasting cadre. The revised scale of pay of Rs. 5000-8000/- adopted by this Department vide OM dated 1.7.1998 was not made applicable to all posts having the pre-revised scale of Rs. 1400-2300/- but only to the posts specifically mentioned in Part-B of the Ministry of Finance Notification dated 30.9.1997. However, in the case of Shri Vaze his pay scale of Rs. 4500-7000/- was eventually revised to Rs. 5000-8000/- under the ACP scheme after the completion of 12 years of service as UDC. Therefore there is no justification for upgradation of the pay scale of the applicant. He further argued that the Hon'ble Supreme Court in the case of Union of India & Anr. Vs. P.V. Hariharan & Anr., (1997) 3 SCC 568 has held that the Tribunal and Courts should not normally interfere in the cases of fixation of pay and granting of higher pay scales. Hence, the applicant is not entitled for the reliefs claimed by him and accordingly, this OA deserves to be dismissed.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records, we find that the Department of Atomic Energy had constituted a committee headed by one Shri A.K. Anand, a Senior Scientific Officer, to consider and advise the Department^{ment} regarding applicability of Parts B & C of the first schedule to the notification dated 30.9.1997 to various categories of employees in the Department of Atomic Energy and its constituent units, taking into consideration the observations/recommendations in the body of the report

of the Vth Pay Commission corresponding to the pay scale and category of employees. After considering the re-commendations of the said committee the respondents' Department vide OM dated 1.7.1998 had revised the pay scales of the certain administrative/auxiliary posts alongwith other technical categories. The scales of pay of Senior Clerks, Accounts Assistant, Welfare Assistant, Publicity Assistant, Storekeeper and Junior Hindi Translator were further revised from the pay scale of Rs. 4500-7000/- to Rs. 5000-8000/-. We also find that the post of Cashier is an isolated post and had been declared as a wasting cadre, that's why the same was not included for further revision. The respondents have considered the representation of the applicant dated 30.9.1999 and rejected the same by informing him vide letter dated 10.2.2000. We also ^{feel} filed that Shri Vaze's pay scale of Rs. 4500-7000/- was eventually revised to Rs. 5000-8000/- under the ACP scheme after completion of 12 years of service as UDC. Further we have perused the ruling cited by the respondents in the case of P.V. Hariharan (supra). The Hon'ble Supreme Court has observed as under :

"5. We noticed that quite often the Tribunals are interfering with pay scales 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 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....."



7. Considering all the facts and circumstances of the case we are of the considered view that this Original Application is liable to be dismissed as having no merits. Accordingly, the same is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

"SA"

पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....

पतिलिपि अयोधित:-

(1) सचिव, उच्च न्यायालय बार एलेसिएशन, जबलपुर

(2) आवेदक श्री/श्रीमती/शु.....के काउंसल

(3) प्रत्यक्षी श्री/श्रीमती, उ.....के काउंसल

(4) वरिष्ठ, सौम्य.....के काउंसल

सूचना एवं आवेदन, उ.....के काउंसल

उप रजिस्ट्रार

7/8/11
29.11.05