

**CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH**

OA No. 337/03

Jabalpur, this the 16th day of December, 2004

CORM

Hon'ble Mr.M.P.Singh, Vice Chairman

Hon'ble Mr.Madan Mohan, Judicial Member

1. All India Ordnance Factories Para
Medical Staff Association through its General
Secretary Shri K.S.Rana, having its Head Office
At Vehicle Factory Hospital, Jabalpur.
2. Mubarak Allah
S/o Late Abdul Mazeed
Medical Assistant, Gun Carriage Factory Hospital
Jabalpur. Applicants.

(By advocate Shri S.K.Mukherjee)

Versus

1. Union of India through
Its Secretary
Ministry of Defence
New Delhi.
2. Ordnance Factory Board through its
Chairman, 10-A, Shaheed Khudiram Bose Road
Kolkata.
3. Senior General Manager
Vehicle Factory
Jabalpur.
4. General Manager,
Gun Carriage Factory
Jabalpur. Respondents.

(By advocate Shri P.Shankaran)

ORDER

By Madan Mohan, judicial Member

By filing this OA, the applicants have sought the following reliefs:



- (i) Direct the respondents to implement the recommendation of the committee constituted to remove the anomaly.
- (ii) Direct the respondents to pay interest at market rate on the arrears of pay.

2. The brief facts of the case are that the first applicant is a registered trade union having its head office at Vehicle Factory, Jabalpur and is engaged in the activities of safeguarding the interest of the para medical cadre of Ordnance and Ordnance Equipment Factory Hospitals in general and members of the association in particular and to get their grievances redressed in a legal manner. Para Medical category comprises of two components (i) nursing personnel and (ii) non-ministerial Group 'C' & 'D' Hospital employees. The issue in the present case pertains to the pay scale of Medical Assistant in the pay scale of 950-1500 pre-revised with 2 ACPs to the scale of Rs.1320-2040 and Rs.1400-2300 which has not been effected by the respondents. The post of Medical Assistant is the original post of Dresser. The grant of aforesaid scale to Medical Assistant was anomalous because the Pay Commission failed to appreciate that in 4th Pay Commission, the pay scale of medical Assistant (Dresser) of Ordnance Factories was similar to that of the Dressers of Railways and other Central Govt. Organizations. In 1994, there was a cadre review of Group 'D' employees and the two pay scale of Rs.775-1025 and Rs.800-1150 were merged into the pay scale of Rs.775-1150 and the Medical Assistants of Factory Organizations also came in this scale w.e.f. 1994. The aforesaid recommendation led to anomaly to the extent that though the Dressers of the Railways and other Central Government Departments who were discharging the same duties as that of Medical Assistant of



Ordnance Factory Board, higher pay scale was recommended in favour of Dressers of Railways and other Central Government Departments whereas the Medical Assistants were discriminated. The respondents have failed to implement the same and the Medical Assistants are being deprived in terms of higher scale of pay. Hence this OA is filed.

3. Heard learned counsel for both parties. It is argued on behalf the applicants that higher pay scale was recommended in favour of the Railways and other Central Government Departments whereas the Medical Assistants were discriminated. The respondents have not given any reasons in denying the higher pay scale to the applicants. They have not supplied relevant material to the applicant. The applicants are entitled to the reliefs claimed.

4. In reply, learned counsel for the respondents argued that Medical Assistant under the Ordnance Factory organization was carrying a pay scale of Rs.210-270 from 1.11.73 based on 3rd Pay Commission and Rs.800-1150 from 1.1.86 based on 4th Pay Commission. Subsequently on a demand in the national Council from the staff side for cadre review of Group 'D' staff it was decided that Group 'D' scale of pay Rs.775-1025 and Rs.800-1150 be merged into a single elongated scale of pay of Rs.775-1150 as contained in the order dated 7.4.95 (Annexure A2). Based on the recommendation of 5th Central Pay Commission, the Medical Assistant under the Ordnance Factory Organization was placed in the revised pay scale w.e.f. 1.1.96. However, there was a demand for up gradation of pay scale of Para Medical Staff including Medical Assistant in Ordnance and Ordnance Equipment Factories. A sub committee was constituted to study the various anomalies and the committee recommended that the Medical Assistant under Ordnance Factories should be placed in the revised pay scale of Rs.950-1500 pre-revised with 2 ACPs to the scale of Rs.1320-2040 and Rs.1400-2300 at par with Dresser



in Railways. Revision of pay scale to Government employees is under the jurisdiction of expert bodies like pay commission and pay commission has not recommended any upgraded pay scale to the para medical staff under the respondents. The learned counsel further argued that it is settled law on the subject that court/tribunals are not expert bodies to study and recommend pay scale to employees and also cannot interfere with the decision of Government on such matters on judicial review unless the decision is malafide or arbitrary.

5. After hearing the learned counsel for both parties and a careful perusal of the records, we find that the arguments advanced on behalf of the respondents that it is the settled laws that court/tribunals are not expert bodies to study and recommend pay scale to employees is supported by the decision of the Hon'ble Supreme Court reported in 1997 SCC 568 - P.V.Hariharan & ors. Vs.UOI & ors. decided on 12.3.97.

6. Considering all the facts and circumstances of the case, the respondents are directed to furnish the relevant documents to the applicants and after giving an opportunity of hearing, they shall consider and decide the grievances of the applicants by passing a detailed, speaking and reasoned order within a period of six months from the date of receipt of a copy of this order.

7. The OA is disposed of as above. No costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

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

प्रतिनिधि लको रिता:-

(1) सचिव, उच्च न्यायालय एवं उच्च न्यायालय, जबलपुर

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

(3) प्रत्यर्पी श्री/श्रीमती/शु.....के काउंसल

(4) न्यायालय, को.प्र.अ., जबलपुर न्यायापीठ
सूचना एवं आवश्यक कार्यवाही हेतु

उपस्थित

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