

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT SITTINGS: GWALIOR

Original Application No.104 of 1998

Gwalior, this the 23rd day of April, 2003

Hon'ble Mr.R.K.Upadhyaya-Member (Administrative)
Hon'ble Mr.J.K.Kaushik -Member (Judicial)

H.S.Chauhan, s/o Shri G.S.Chauhan,
Aged 43 years, Health Superintendent,
Station Health Organisation, Morar
Cantt., Gwalior

- Applicant

(By Advodate-Shri S.C.Sharma)

Versus

1. Union of India, Through: Secretary,
Defence Services, New Delhi.
2. Chief of the Army Staff, New Delhi.
3. Director General, Medical Services (Army),
Army Headquarters, 'L' Block, New Delhi.
4. Officer Commanding, Station Health Organisation,
Morar, Cantt., Gwalior - RESPONDENTS

(By Advocate - Shri T.C.Singhal)

O R D E R

By R.K.Upadhyaya, Member (Adminv)-

The applicant has claimed the following relief:-

"The humble applicants pray that the pay scales be ordered to be revised in the corresponding any scale of the IVth Central Pay Commission to be given w.e.f. 1.1.86 and correspondingly Vth Central Pay Commission from 1.1.96 in the interest of justice".

2. It is stated that the applicant was working on the post of Health Superintendent. He was initially appointed as Health Inspector in the year 1979. It is claimed that similarly situated employees are granted better pay scales. Therefore, there is hostile discrimination so far as the applicant is concerned. It is claimed by the applicant that he is performing the duties of specialised nature. The Third Pay Commission had recommended pay scale of

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Health Inspector as Rs.330-560, Health Superintendent Rs.425-640, and Senior Health Superintendent Rs.550-900. However, for lapse on the part of the department to project the case of the applicant and similarly placed other employees, they have been discriminated by the Fourth Central Pay Commission (for short '4th CPC') and 5th CPC. On this account, the pay scales as recommended by the 4th CPC have remained to be as follows- Health Inspector Rs.1200-2040; Health Superintendent Rs.1400-2300 and Senior Health Superintendent Rs.1640-2660. Whereas in some other cases of the employees of the similar categories the pay scale of Rs.550-900 came to be revised to Rs.2000-3200, pay scale of Rs.425-640 came to be revised to Rs.1640-2900 and pay scale of Rs.330-560 came to be revised to Rs.1350-2200. The applicant claims that he should also be given the same enhanced pay scale with effect from 1.1.1986 along with 18% interest. Similarly, the scales granted after 5th CPC with effect from 1.1.1996 also have not been properly revised. According to the applicant, the pay scales should have been after the 5th CPC as follows- Health Inspector Rs.5000-8000; Health Superintendent Rs.6500-10500; and Senior Health Superintendent Rs.7500-12000. It is claimed that the applicant and similarly placed other persons have been making representations but the same have not been decided favourably. It is further stated that similar matters were agitated before the Chandigarh Bench of this Tribunal in O.A.No.926/HR/94. The Chandigarh Bench vide order dated 8.11.1999 had disposed of that O.A. with a direction to the respondents to consider the representation of the applicants in that case and take a final decision thereon within three months with intimation to the applicants. The learned counsel of the applicants stated that in spite of the direction of the Chandigarh Bench of the Tribunal, the respondents have not favourably considered the case of the applicant,

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therefore, they should be directed to allow higher pay scales to the applicant as well as to other similarly placed employees.

3. In their reply, the respondents have submitted that the posts of Health Inspector, Health Superintendent and Senior Health Superintendent are considered as para-medical staff Group-C as per Army Headquarters circular letter dated 29.5.1987. In view of the fact that the 4th CPC had not recommended higher pay scale to the applicant, the same was not given to the applicant. According to the respondents, the 4th CPC considered all the aspects as canvassed by the applicant in this O.A. The report of the 4th CPC was not challenged by the applicant well in time. The respondents claim that they are bound by the recommendations of the 4th CPC as well as the 5th CPC. According to the respondents, the recommendations of the Pay Commissions cannot be questioned and no relief sought by the applicant in this OA can be granted. The respondents in their reply have stated that duties of the Health Inspector, Health Superintendent and Senior Health Superintendent are not technical in nature and the staff is not considered as para medical staff Group-C. Therefore, the claim of higher pay scale is not permissible to the applicant. It is also stated by the respondents that the nature of work of Health staff in Railway Ministry and Defence Ministry is not similar. There is difference in recruitment qualification also. The learned counsel of the respondents invited attention to the letter dated 22.5.2001 regarding clarification anomaly in pay scales in respect of Sr. Health Superintendent, Health Superintendent and Health Inspector, as communicated by the Army Headquarters letter dated 30.4.2001 in which it has been mentioned as follows:-

"3. Thereafter this Dte has taken up their cases with the Anomaly Committee for upgradation of their pay scales at par with the Ministry of

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Railways and inclusion of these categories under the head of Para Medical Staff as anomaly and disparity arising out after the implementation of the Fifth Central Pay Commission as alleged. The decision of the Anomaly Committee has already been communicated to all affected concerned vide their HQ letter No. 32152/PCC/DGMS-3(B) dated 17th May, 1999..

4. Subsequently, Shri PS Madan, Health Supdt and other Health Supdts and Health Inspectors had filed a Court Case OA No. 926-HR-94 in CAT, Chandigarh Bench; at Chandigarh to have the same benefits on the same grounds an analogy. As per the Court Order dated 08 Nov 99 the case was again taken up with the Govt. The Ministry after careful examining the issue in depth issued a 'speaking order' No.B/32153/PSM/DGMS-3B/133/CC/2000/D(Mad) dated 31 Jul 2000 (copy att'd) denying the upgradation of their pay scales."

According to the learned counsel of the respondents, the directions of the Chandigarh Bench of this Tribunal have been taken into consideration and the matter has been examined and the claim of the applicant has not been accepted by the Government. According to him, there is no need to issue any fresh direction for reconsideration of the same matter.

4. We have heard the learned counsel of both the parties and have carefully considered the material available on record.

5. What pay scale should be granted to which class of employees is within the domain of the administration. Such a decision regarding pay scale is arrived at after considering the recommendations of the Pay Commissions and other anomaly committee appointed by the Government. The Courts and Tribunals are not expected to recommend pay scales of the employees. The Hon'ble Supreme Court in the case of Union of India and others Vs. Indu Lal and others, 2002 (3)SLJ 130 has observed that Tribunals are not justified in directing parity of pay scales to certain class of employees. While doing so, the Hon'ble Supreme Court have referred to their earlier decision in the case of State of U.P. Vs. J.P. Chaurasia, 1989(1) SCC 121. In another recent decision in the case of SBI Vs. MR Ganesh Babu, AIR 2002 SC 1955 their Lordships have observed that equal pay must depend upon the nature of work. It cannot be judged by the mere volume of work, there may be qualitative difference as regards reliability and responsibility. Differentiation in pay scales of persons

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holding same post and performing similar work on the basis of difference in the degree of responsibility, reliability and confidentiality would be a valid reason. In view of the fact that in the instant case the Government has already considered the directions issued by the Chandigarh Bench of this Tribunal, there is no need to give a fresh direction for reconsideration. However, the applicants may be at liberty to project his case at the appropriate forum whenever such an occasion arises like anomaly committee/Pay Commission if they are constituted in future. So far as this Tribunal is concerned, the relief claimed by the applicant cannot be granted in view of the decisions of the Hon'ble Supreme Court referred to earlier.

6. In view of the reasons stated in the preceding paragraph, this application is dismissed without any order as to costs.

J.K. Kaushik
(J.K. Kaushik)
Member (Judicial)

R.K. Upadhyaya
(R.K. Upadhyaya)
Member (Admin)

rkv.

*Issued
9/5/03*

पृष्ठंकन सं ओ/या.....जबलपुर, दि.....

प्रतिमा: वापसित:-

- (1) *SC Sharma, Adv. GWK*
- (2) *TC Singhal, Adv. GWK*
- (3) *SC Sharma, Adv. GWK*
- (4) *TC Singhal, Adv. GWK*

सूचना एवं आवश्यक कार्यवाही हेतु

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