

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

Jaipur, this the 18<sup>th</sup> day of May, 2011

**Original Application No.348/2007**

CORAM:

**HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)**  
**HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)**

Chhaju Lal Mali  
s/o late Shri Arjun Lal Mali,  
r/o C-68 A, J.P. Colony,  
Tonk Phatak, Jaipur and  
presently working as Laboratory  
Technician (Selection Grade),  
P&T Dispensary No.1,  
Jaipur.

.. Applicant

(By Advocate: Shri C.B.Sharma)

Versus

1. Union of India  
through its Secretary to the Govt. of India,  
Department of Posts,  
Ministry of Communications and  
Information Technology, Dak Bhawan,  
New Delhi.
2. Chief Post Master General,  
Rajasthan Circle,  
Jaipur-7.
3. Senior Superintendent Post Offices,  
Jaipur City Postal Division,  
Jaipur

.. Respondents

(By Advocate: Shri Hemant Mathur)

O R D E R (ORAL)

The present OA is made against the letter dated 23.05.2007 by which representation of the applicant for allowing correct pay scale of Laboratory Technician Selection Grade preferred on 6.1.2007 against rejection of request by the respondent No.2 vide letter dated 23.8.2006 preferred as per direction of Hon'ble High Court Bench, Jaipur in D.B. Civil Writ Petition No. 2448/2002 decided on 22.3.2006 has been rejected without considering facts and circumstances relating to pay-scale to the Selection Grade Laboratory Technician taking into consideration of pay scales available to para-medical staff in CGHS as well as other hospitals of the Central Government.

2. The impugned letter dated 23.5.2007 (Ann.A/1) is challenged on the ground of wrong action of the respondents in reducing pay scale from Rs. 5000-8000 to Rs. 4500-7000 on the basis of replacement scale of Rs. 1400-2300 for common cadres against which the applicant approached this Tribunal by way of filing OA No. 296/1988 and the Tribunal after considering facts and circumstance and the reply filed by the respondents partly allowed the aforesaid OA vide order dated 16.11.2000 (Ann.A/16) observing as under:-

"7. We, accordingly, partly accept this OA and direct the respondents not to make any recovery from the pay of the applicant for the period from 1.5.1988 to 31.7.1988. Whatever amount has already been recovered from him for this period shall be refunded to him within two months of the date of



receipt of copy of this order. This will, however, not preclude the respondents from issuing a show-cause notice to the applicant and after considering his reply, issue fresh orders for recovery of excess payment in easy installments for the relevant period w.e.f. 1.8.98, if there is a mistake in fixation of the pay of the applicant but as already directed hereinbefore such recoveries if required to be made only from 1.8.1998 in easy installments."

3: The respondents further placed the applicant in the scale of Rs. 5000-8000 under ACP scheme w.e.f. 9.8.1999 instead of Rs. 5500-9000 vide memo dated 30.11.2000 (Ann.A/17). As per direction of this Tribunal vide order dated 16.11.2000 the respondents refunded the amount recovered from the applicant of Rs. 1250/- but not restored the pay of the applicant and for reducing his pay till date no show cause notice or any chance of hearing extended to the applicant and since 1998, the applicant is drawing less salary.

4. The applicant also approached the Hon'ble High Court by way of filing D.B.Civil Writ Petition No. 2488/2002 against the order dated 16.11.2000 passed by this Tribunal and Hon'ble High Court vide its order dated 22.3.2006 disposed of the Writ Petition with liberty to the applicant to prefer representation to the concerned authority with regard to pay fixation. Pursuant to liberty given by the Division Bench of the High Court, the applicant preferred representation Ann.A/2 through proper channel and the same was considered and rejected vide impugned order dated 23.5.2007 (Ann.A/1).

5. The case of the respondents is that the applicant who retired on 31.7.2007 having educational qualification of matriculation was initially appointed as Laboratory Technician in P&T Dispensary,



Jaipur on 20.3.1872 (A/N) in the pay scale of Rs. 150-300 which was subsequently revised to Rs. 330-560 on implementation of 3<sup>rd</sup> Pay Commission w.e.f. 1.1.1973. The applicant was further promoted in the scale of Rs. 425-640 on 19.5.1984 under 20% promotional scheme and was fixed at the stage of Rs. 485/- which was further replaced in the scale of Rs. 1400-2300 as recommended by the 4<sup>th</sup> Pay Commission w.e.f. 1.1.1986 and he was fixed at the stage of Rs. 1520/- with date of next increment 1.5.1986 to Rs. 1560/-. The applicant was allowed increment of Rs. 50/- instead of Rs. 40/- at the stage of Rs. 1600/- on 1.5.1988 which caused over payment to the tune of Rs. 10724/- during the period from 1.5.88 to 31.7.98 and recovery of the said amount was started in the month of August, 1998 to regularize the over payment.

6. As observed hereinabove, vide judgment passed by this Tribunal in the earlier OA preferred by the applicant, the OA was partly allowed restraining the respondents to make recovery from the applicant for the period from 1.5.1988 to 31.7.1988 and whatever amount already recovered from the applicant shall be refunded to the applicant, has been complied with by the respondents. The Tribunal also given liberty to the respondents observing "This will however, not preclude the respondents from issuing a show-cause notice to the applicant and after considering his reply, issue fresh orders for recovery of excess payment in easy instalments for the relevant period w.e.f. 1.8.98 if there was a mistake in fixation of the pay of the applicant.." meaning thereby that the excess payment which has been made can be recovered



by the respondents after issuing fresh show-cause notice to the applicant and after giving opportunity of being heard and after considering reply, the respondents can pass fresh order of recovery.

7. As per recommendations of 5<sup>th</sup> Pay Commission, the scale of Rs. 1400-2300 was replaced by corresponding pay scale of Rs. 4500-125-7000 w.e.f. 1.1.1996 and thus applicant's pay was fixed at the stage of Rs. 6000/- with date of next increment 1.5.1996.

8. As the applicant challenged the judgment of this Tribunal dated 16.11.2000 before the Hon'ble High Court by way of filing Writ Petition and the same was disposed of on 22.3.2006 with liberty to the applicant to make representation to the concerned authority within two months which representation was to be disposed of by the concerned authority within three months thereafter in accordance with the law. In compliance to the direction of Hon'ble High Court, the applicant submitted representation dated 13.5.2006 before respondent No.2 for allowing correct pay fixation w.e.f. 1.1.1986 and 1.1.1996 and the said representation was rejected by the Chief Postmaster General, Rajasthan Circle, Jaipur vide memo dated 23.8.2006. The applicant again preferred representation dated 6.1.2007 before respondent No.1 which was also rejected vide order dated 23.5.2007 (Ann.A/1).

9. We have heard the rival submissions of the respective parties and examined the material available on record as well as the order passed by the Tribunal in OA No.296/98 dated 16.11.2000 and the judgment of the Division Bench of the High Court dated 22.3.2006.



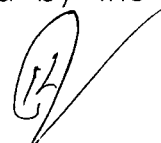
We have also carefully examined the impugned order Ann.A/1 by which representation of the applicant has been rejected. While considering the representation and qualification of the applicant who was appointed as Laboratory Technician in P&T Dispensary on 21.3.1972 in the scale, as discussed hereinabove, which was revised from time to time, the respondents have considered the claim of the applicant with regard to placing him in the pay scale of Rs. 1400-2300 w.e.f. 1.1.1986 which was revised to Rs. 5000-8000 w.e.f. 1.1.1996 and placement in the pay scale of Rs. 5500-9000 by giving financial upgradation under the ACP scheme.

10. A clarification was sought from the Directorate vide letter dated 24.2.1988 for placing the applicant in the pay scale of Rs. 1400-2600 from the pay scale of Rs. 1400-2300 in the year 1988. According to Directorate's clarification dated 24.2.1988 the Laboratory Technicians were placed in the pay scale of Rs. 1200-1800 (now 4000-6000) and Selection Grade Radiographers/X-Ray Technicians/Pharmacist were placed in the pay scale of Rs. 1400-2600. There is no mention of Selection Grade Laboratory Technician in this clarification, therefore, pay scale of Rs. 1400-2600 is not applicable to the applicant. The entry pay scale of Pharmacist was upgraded to Rs. 1350-2200 due to qualification of Diploma in Pharmacy, therefore, pay of Selection Grade Pharmacist was also upgraded. The 4<sup>th</sup> CPC did not recommend any higher pay scale to the Laboratory Technicians, therefore, they were placed in the replacement pay scale whereas the 5<sup>th</sup> CPC recommended the pay scale of Rs. 4000-6000 as replacement pay scale of Rs. 1320-



2040 not Rs. 4500-7000 as claimed by the applicant. The Laboratory Technicians in the Postal Dispensaries were in the pay scale of Rs. 1200-1800 and they have been given the replacement pay scale of Rs. 4000-6000. The Selection Grade Laboratory Technicians were in the pay scale of Rs. 1400-2300, as such, the replacement pay scale of which is Rs. 4500-7000.

11. Having considered the educational qualification of the applicant, who is only matriculation whereas the persons who were having qualification of Diploma in Pharmacy were given selection grade of Pharmacist and their scale was upgraded. Even, examining the order passed by this Tribunal on 16.11.2000 wherein the same issue has been raised by the applicant and the Tribunal restrained the respondents to make recovery from the pay of the applicant for the period from 1.5.1988 to 31.7.1998 and whatever amount already recovered was to be refunded, but on the contrary the respondents were given liberty to issue show cause notice and after considering reply, issue fresh orders for recovery, if there is mistake in fixation of pay of the applicant but no relief whatsoever has been given with regard to pay scale meaning thereby that claim of the applicant regarding pay scale has been rejected. The Division Bench of the Hon'ble High Court also disposed of the Writ Petition with liberty to the applicant to represent before the concerned authority and the authority concerned was directed to consider the same in accordance with law. Pursuant to the directions of the Division Bench, representation has been made which was considered by the respondents in



accordance with law. Thus, we find no illegality in the order impugned and no interference is called for by this Tribunal.

12. Consequently, the OA stands dismissed being devoid of merit with no order as to costs.

  
(ANIL KUMAR)  
Admv. Member

  
(JUSTICE K.S.RATHORE)  
Judl. Member

R/