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Central Administrative Tribunal
Jaipur Bench, JAIPUR

ORDERS OF THE BENCH

24th July, 2009

OA. 180/2008

Present: Shri Ganesh Meena, counsel for applicant
Ms. Kavita proxy for Sh. Kunal Rawat, counsel for
respondents

Heard counsel the parties.

For the reasons to be dictated separately the OA is disposed
of.

(B.L. Khatri)
Member (Administrative)

(M.L. Chauhan)
Member (Judicial)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 24th day of July, 2009

ORIGINAL APPLICATION NO. 180/2008

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Ghisa Lal Nath son of Shri Bansi Lal by caste Nath, aged about 48 years, resident of Quarter No. 1, Block-D, CISF, RTC, Deoli, District Tonk, Presently posted as Nursing Orderly, office of Addl. DIG, CISG, RTC, Deoli, District Tonk.

.....APPLICANT

(By Advocate: Mr. Ganesh Meena)

VERSUS

1. Union of India through Secretary, Government of India, Ministry of Home Affairs, New Delhi.
2. The Addl. DIG, CISF, RTC-1, Deoli, District Tonk.
3. The Assistant Commandant DDO, CISF, RTC, Deoli, District Tonk.

.....RESPONDENTS

(By Advocate: Ms. Kavit Bhati proxy to Mr. Kunal Rawat, Sr. Standing Counsel)

ORDER (ORAL)

The applicant has filed this OA thereby praying that impugned order dated 04.03.2008 (Annexure A/1) be quashed whereby he was informed that he was appointed as Nursing Orderly on 09.01.1984 in the pay scale of Rs.210-270 and at the time of appointment, the post of the Nursing Orderly was in Group 'D' and not in Group 'C', as he was informed vide letter dated 08.01.1988. The applicant has further prayed that directions may be given to the respondents to allow fixation of pay to him in Group 'C' post with all consequential benefits.

2. Briefly stated, facts of the case are that the applicant was appointed as Nursing Orderly vide order dated 07.01.1984 (Annexure

h/s

A/2). The grievance of the applicant is that the post of Nursing Orderly was in Group 'C'; as such he is entitled to revision of pay scale in Group 'C'.

3. Notice of this application was given to the respondents. The respondents have filed their reply. In the reply, the respondents have categorically stated that post of Nursing Orderly was in the pay scale of Rs.210-270 and as per recruitment rule; the post of Nursing Orderly is a general Central Service Group 'D' post in the pay scale of Rs.210-270 (pre-revised). Accordingly, the pay of the applicant as on 01.01.1986 was to be fixed in the revised pay scale of Rs.800-1150 and he is not entitled to fixation of pay in Group 'C'.

4. We have heard the learned counsel for the parties and have gone through the material placed on record. We are of the view that the matter on this point is no longer re-integra and the same is fully covered by the judgment rendered by this Tribunal in OA No. 494/2008 [Rajeshwar Kewat vs. Union of India & Others] decided on 02.04.2009. At this stage, it will be useful to quote Para nos. 4 & 5 of the said judgment which reads as under:-

"4. We are of the view that this OA is wholly misconceived and deserves out right rejection for more than one reason. In exercise of the powers conferred by the proviso to Article 309, and clause (5) of Article 148 of the Constitution and after consultation with the Comptroller and Auditor General in relation to person serving in the India Audit and Accounts Department, the president issued the Central Civil Services (Revised Pay) Rules, 1986 which came into force w.e.f. 01.01.1986. As per Rule 4 of the said Rules, as from the date of commencement of these rules, the scale of pay of every post specified in column 2 of the First Scheduled was revised as specified against it in column 4 thereof. In terms of statutory rule, the first schedule has issued revised scales for posts carrying present scales in Group 'D', 'C', 'B' and 'A' except posts for which different revised scales are notified separately. Here we are concerned with the posts carrying the pay scale of Rs.210-270. The said scale has been mentioned at sl. No. 3. At this stage, it will be useful to quote sl. No. 3 of the first schedule, which is as under:-

Sl. No. (1)	Posts (2)	Present scale (3)	Revised scale (4)
3	All the posts carrying present scales specified in Column (3)	(a) 210-4-250-EB- 5- 270 (b) 210-4-250-EB-4-270 (c) 210-4-226-EB-4-250-EB-5-290	800-15-1010-EB-20-1150

5. From perusal of the aforesaid extract, it is evident that the post of Nursing Orderly, which was in the pay scale of Rs.210-270 and find mentioned at 3(b) is a Group 'D' post. The revised scale of the said post is Rs.800-1150/-. Thus the contention of the applicant that he is entitled to the scale of Group 'C' is wholly misconceived. When he was appointed in Group 'D' category, he is entitled to revised scale of the post which has been mentioned as 800-1150. It is not the case of the applicant that he was not granted revised pay scale of Rs.800-1150, which was admissible to him in accordance with CCS (Revised Pay) Rules, 1986. The contention of the applicant is that he is entitled to the pay scale of Group 'C' post on the basis of letter dated 18.07.1985 (Annexure A/3) whereby in case of one Shri Ghisalal Nath, Nursing Orderly, Rs.20/- has been wrongly deducted by some official on account of Central Government Employees Group Insurance Scheme. Thus solely on this basis, it cannot be termed that the post of Nursing Orderly is Group 'C' post especially when he was appointed as Group 'D' employee and even as per classification as find mentioned in the Revised Pay Rules, 1986 first Schedule post belongs to Group 'D' category whereas Group 'C' categories start where minimum pre-revised scale begins from Rs.225/- onwards."

5. The reasoning given by this Tribunal in the case of **Rajeshwar Kewat** is fully applicable in the facts & circumstances of this case. That part, the Apex Court in the case of **Union of India & Another vs. P.V. Hariharan & Another**, 1997 SCC (L&S) 838 has held that the question whether the post falls in Group 'C' or Group 'D' is immaterial. What is material is that the classification cannot result in change of pay scale. Pay scales are what are prescribed for each post by the Government which is very often done on the basis of recommendations of a Pay Commission or similar expert body. Classification of posts has nothing to do with fixation of pay scales; it only classifies posts into several grounds based upon the pay scales

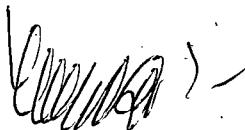
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already fixed. Classification and prescribing pay scales for several posts are two different and distinct functions.

6. Thus from the judgment of the Apex Court, it is clear that revision in pay scales has to be made as recommended by the Pay Commission and classification of post whether Group 'C' or Group 'D' is immaterial. In the present case, the post of Nursing Orderly was Group 'D' and even after revision of the pay scale, classification remains the same i.e. Group 'D'. The applicant has been granted corresponding revised pay scale w.e.f. 01.01.1986 on account of revision of pay scale, as noticed above. Thus according to us, the applicant is not entitled to any relief.

7. With these observations, the OA is disposed of with no order as to costs.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

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