

Central Administrative Tribunal
Jaipur Bench, JAIPUR

ORDERS OF THE BENCH

24th August, 2009

TA. 20/2009 (C.W.P. No. 5618/95)
MANB 27/2009.

Present: Shri S.L. Songara, counsel for applicant
Shri Anurag Agarwal proxy for Sh. M.D. Gupta
, counsel for respondents

Heard counsel for the parties.

For the reasons to be dictated separately the present TA
shall disposed of.

(B.L.Khatri)

Member (Administrative)

(M.L.Chauhan)

Member (Judicial)

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Central Administrative Tribunal
Jaipur Bench, JAIPUR

TA 20/2009
(C.W.P. 5618/95)

W.L.K.
M/s No 270 / 2009
This the 24th day of August, 2009

Hon'ble Shri M.L. Chauhan, Member (Judicial)
Hon'ble Shri B.L. Khatri, Member (Administrative)

Gopal Lal Sharma,
S/o Sh. Shiv Prasad Sharma
R/o 5-D-II, Jawahar Nagar, Jaipur, Rajasthan,

....Applicant

(By Advocate: Shri S.L. Songara)

VERSUS -

1. National Institute of Ayurveda through its Director,
'Madhav Vilas' Amber Road, Jaipur (Rajasthan)
2. The Secretary,
Ministry of Health & Family Welfare, Nirman Bhawan,
New Delhi.

....Respondents

(By Advocate: Shri Anurag Agarwal proxy for Sh. M.D. Agarwal)

ORDER (ORAL)

This case has been transferred from the Hon'ble High Court of Rajasthan. In this case Petitioner filed Writ Petition in the year 1995, however, the case remained pending before the Hon'ble High Court and it has been transferred to this Tribunal to decide the same on merits in the year 2009. Grievance raised in this case is regarding grant of revised pay scale pursuant to the order dated 21.7.1995 Annexure A-2

whereby the authority has granted two different revised pay scale on the basis of educational qualification. Similar grievance was also raised in the TA.No.12/2009 in the case **Smt.**

Savitri Devi Sharma Vs. UOI which was decided on 5.8.2009 and challenge made to the aforesaid notification dated 21.7.1995 was negatived relying upon the judgments of Apex court whereby the Apex Court has held that parity in pay scale cannot be claimed when the educational qualification is different. Learned counsel for applicant submits that he intends to move the MA for amendment of TA thereby incorporating additional ground 10-A based on discrimination inasmuch as in case of similarly situated person who did not possess higher educational qualification, respondents have allowed higher pay scale vide order dated 25.8.2004 whereas the said benefit has not been extended to the applicant. The said MA is taken on record and Registry is directed to register this MA.

We have heard learned counsel for the applicant. We are of the view instead of allowing this MA, thereby permitting the applicant to incorporate additional ground in the TA at this belated stage i.e. after about 15 years, present TA can be disposed of at this stage of with liberty reserved to him to file substantive OA thereby incorporating the

ground as raised in Para 10-A of proposed amendment on account of discrimination.

In view of what has been stated above, permission is granted to withdraw this TA with liberty reserved to the applicant to file fresh OA within a period of one month. In case, such OA is filed within the aforesaid period the same will be considered on merits and it will be open for the respondents to raise all permissible objections.

With these observations, the TA & MA shall stand disposed of.


(B.L.Khatri)
Member (Administrative)


(M.L.Chauhan)
Member (Judicial)

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