

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI**

**OA No.4609/2011  
M.A. No.277/2016**

RESERVED ON 09.02.2016  
PRONOUNCED ON : 16.02.2016

**HON'BLE MR. JUSTICE SYED RAFAT ALAM, CHAIRMAN  
HON'BLE MR. P.K. BASU, MEMBER (A)**

1. Satya Prakash  
Aged about 61 years  
S/o Shri Om Prakash  
Sanitary Inspector,  
NICD  
R/o C-2/150, Yamuna Vihar,  
Delhi-110053.
2. Ashok Kumar Sharma  
Aged about 55 ½ years  
S/o Shri Rameshwar Dass Sharma  
A-14/3, Yadav Nagar,  
Delhi-110042.
3. Narinder Kumar  
Aged about 58½ years  
S/o Shri Chhhotu Ram  
Sanitary Inspector,  
NICD  
F-61, Gali No.1, Ganga Vihar,  
Delhi-110094. ...Applicants

(By Advocate: Shri V.P.S. Tyagi)

**VERSUS**

1. The Union of India  
(Through Secretary)  
Ministry of Health and Family Welfare,  
Nirman Bhawan,  
New Delhi.
2. The Director General,  
Directorate General of Health Services,  
Nirman Bhawan,  
New Delhi.
3. The Director,  
National Institute of Communicable Diseases

(Directorate General Health Services)  
22, Sham Nath Marg,  
Delhi-110054.

...Respondents

(By Advocate: Shri S.M. Zulfiqar Alam)

**ORDER**

**Mr. P.K. Basu, Member (A)**

The applicants are working as Sanitary Inspectors in National Institute of Communicable Diseases (NICD) under the Ministry of Health and Family Welfare. They were initially appointed in the pay scale of Rs.330-560. Later on, after the 4<sup>th</sup> Central Pay Commission (CPC), they were granted the pay scale of Rs.1200-2040 with effect from 01.01.1984; Rs.4000-6000 after the 5<sup>th</sup> CPC with effect from 01.01.1996 and thereafter vide order dated 26.09.2000 granted the pay scale of Rs.5000-8000. The applicants grievance arose because vide order dated 02.01.2006, respondents rolled back the pay scale of the applicants to old scale of Rs.4000-6000 with effect from 01.01.1996. Being aggrieved, the applicants approached this Tribunal along with similarly circumstanced employees and was decided by a common order dated 31.01.2007 in **OA Nos.86/2006 and 449/2006** (erroneously mentioned as 31.01.2006 in the copy of the order placed at Annexure A-6). The order dated 02.01.2006 was quashed and set aside. However, liberty was granted to the respondents to roll back the pay scale prospectively after following due process of law, i.e., after putting the applicants on notice.

2. In a parallel activity the Directorate General of Health Services (DGHS) upgraded pay scale of Sanitary Inspectors at

Port and Airport Health Organisations (PHOs) and Airport Health Organisations (APHOs) from Rs.4000-6000 to Rs.5500-9000. The applicants, therefore, demand the pay scale of Rs.5500-9000 at par with Sanitary Inspectors of PHOs/APHOs as the latter belonged to the same department and, therefore, on the ground of "equal pay for equal work" it is alleged that the applicants cannot be denied the same pay scale. In compliance of the order dated 31.01.2007 in **OA Nos.86/2006 and 449/2006**, after putting the applicants on show cause notice, speaking order dated 21.04.2009 was issued placing the applicants in the pay scale of Rs.4500-7000 and accordingly fixing their pay prospectively with effect from 22.02.2000, i.e., from the date the pay scale of Laboratory Assistant was upgraded from Rs.4000-6000 to Rs.4500-7000. Being aggrieved by this order dated 21.04.2009, this OA has been filed seeking the following reliefs:

- (i) Quash and set aside the impugned orders (A-1), (A-2) & (A-3) thereby not to give effect by rolling back of the pay scale of the applicants, instead to the same the applicants need be treated at par with other similarly situated ones in PHOs/APHOs who are granted upgraded pay scale of Rs.5500-9000.
- (ii) Direct the respondents to restore the upgraded pay scale of Rs.5000-8000 from 01.01.2006 forthwith and refix the applicants pay in the appropriate pay scale and grade by accord of 1st and 2<sup>nd</sup> ACP with all consequential benefits

and arrears with interest @12% p.a. from the date it fell due till paid.

(iii) Pass an order or direction as deemed just and proper in the facts and circumstances of the case with award of the cost of this OA in favour of the applicants against the respondents.

3. The grounds for challenge by the applicants are as follows:

(i) Government has to act as a model employer. However, in this case their impugned action leaves much to be desired as the respondents did not act in a manner to decide the case finally.

(ii) Respondents are estopped from withdrawing the upgraded pay scale of Rs.5000-8000 at this belated stage, which the applicants had been availing since 01.01.1996 without reasonable basis and without getting the matter examined by anomaly committee.

(iii) Action of respondents is replete with hostile discrimination towards applicants herein as much as DGHS has granted pay scale of Rs.5500-9000 to Sanitary Inspectors at PHOs/APHOs but applicants are being denied pay scale of Rs.5000-8000 without any reason or basis, which stood granted to them since 01.01.1996.

(iv) The action of respondents is arbitrary, illegal and unjustified which violates Articles 39(d) and 14 of the Constitution of India.

4. The respondents argued that the Sanitary Inspectors in NICD can no way compare themselves with Sanitary Inspectors in APHO/PHO as the essential qualification and other job

requirements are different. For instance, the essential qualification for Sanitary Inspector in APHO/PHO is graduation whereas the Sanitary Inspector in NICD is matriculation. In this regard, the relevant Recruitment Rules of 1978 have been filed which indicate that the essential qualification for Sanitary Inspector in NICD is indeed matriculation and vide Notification dated 29.11.2003, it would be clear that essential qualification for Sanitary Inspector in APHO is Bachelor Degree in Science (B.Sc). Secondly, it is argued that in order dated 31.01.2007 in paras 8, 9, 10 and 11 the contentions of the respondents have been recorded in detail which we repeat here for a clear understanding of their contention:-

"8. The respondents contend that the question to be decided is whether the applicants were entitled to be granted the upgraded pay scale of Sanitary Inspectors working in NIDC at par with Sanitary Inspectors of APHO/PHOs. By order dated 2.1.2006 (Annexure A-1) of the Government of India, National Institute of Communicable Diseases, Directorate General of Health Services, the upgraded pay scale of Rs.5000-8000 granted to the cadre of Malaria Inspector/Filaria Inspector and Sanitary Inspector was withdrawn w.e.f. 1.1.2006 and the applicants were placed in the pay scale of Rs.4000-6000.

9. The Honble Supreme Court in case of **Union of India and another Vs. P.V. Hariharan** (CA 7127/1993) 1997 SCC (L&S) 38 cautioned the Tribunals in interfering with the pay scales since it was a serious matter and has a cascading effect on several other categories. Hon''ble Court made the following observation:-

"Before parting with the appeals we feel to impelled to make a few observations. Over the past few weeks, we have come across several matters decided by Administrative Tribunal on the question of pay scales. We have noticed that quite often the Tribunals are interfering with pay scales without

proper reasons and without being conscious of the fact that fixation of pay is not their function. It is the function of the Government which normally acts on the recommendations of a Pay Commission”.

10. In another Apex Court case of **Secretary, Finance Department and Others Vs. West Bengal Registration Service Association and Others**, JT 1992 (2) SC 27 it is laid down that the parameters for interference of the court in such matters would be limited:-

“We do not consider it necessary to traverse the case law on which reliance has been placed by counsel for the appellants as it is well settled that equation of posts and determination of pay scales is the primary function of the executive and not the judiciary and, therefore, ordinarily courts will not enter upon the task of job evaluation which is generally left to expert bodies like the pay commissions etc. But that is not to say that the court has no jurisdiction and the aggrieved employees have no remedy if they are unjustly treated by arbitrary state action or inaction. Courts must, however, realize that job evaluation is both a difficult and time consuming task which even expert bodies having the assistance of staff with requisite expertise have found difficult to undertake sometimes on account of want of relevant data and scales for evaluating performances of different groups of employees. This would call for a constant study of the external comparisons and internal relativities on account of the changing nature of job requirements. There can, therefore, be no doubt that equation of posts and equation of salaries is a complex matter which is best left to an expert body unless there is cogent material on record to come to a firm conclusion that a grave error had crept in while fixing the pay scale for a given post and courts interference is absolutely necessary to undo the injustice”.

11. The respondents also referred to full Bench of this Tribunal in the case of **M.V.R. Rao and Others etc. Vs. Union of India and Others**, ATFBJ page 260 that “in terms of maintenance of secrecy, workload, etc. the job performed by Central Secretariat Staff is different from those

performed by non-Central Secretariat Staff, therefore, different pay scales were in order”.

5. In that judgment, in para 16, the Tribunal has also made the following observation:-

“It is also relevant to note that respondents have themselves issued letter dated 17.11.2006 with the following subject:-

“Approval for Revision of the Pay Scale for the post of (i) Filaria Inspector (ii) Malaria Inspector (iii) Sanitary Inspector through Anomaly Committee”.

6. It is further stated that the NICD has wrongly granted the pay scale of Rs.5000-8000 to Malaria Inspector/Filaria Inspector/Sanitary Inspector and, therefore, this required a roll back with effect from 01.01.2006. However, as a model employer, it was stipulated that recoveries may not be made. Thereafter, after considering the matter de novo, the Sanitary Inspectors were granted the pay scale of Rs.4500-7000. In fact, the specific orders passed by the respondents were as follows:-

“In accordance with the decision taken by the Ministry of Health and Family Welfare, following orders are made:

(i) The pay scale of Malaria Inspector, Filaria Inspector and Sanitary Inspector is upgraded from Rs.4000-6000 to Rs.4500-7000 w.e.f. 22.02.2000 i.e. from the date the pay scale of Laboratory Assistant was upgraded to Rs.4500-7000 (pre-revised).

(ii) The post of Sanitary Inspector will be filled by transfer basis from the post of Malaria Inspector and Filaria Inspector.

(iii) The post of Laboratory Assistant in the pay scale of Rs.4000-6000 and Rs.4500-7000 (20 posts in pre-revised scale) will be re-designated as Laboratory

Asstt. Grade-II and Grade-I respectively. The post of Lab. Asstt. Gd.I will be filled by promotion from Lab. Asstt. Gd.II”.

7. We have heard the learned counsel for the parties and gone through the pleadings and relevant judgments.

8. The applicants are basically demanding the pay scale of Rs.5500-9000 at par with Sanitary Inspector working in PHOs/APHOs. As the respondents have made it clear, the posts of Sanitary Inspector in NICD are not comparable with Sanitary Inspectors in PHOs and APHOs and the essential qualification itself is much higher for the Sanitary Inspectors in PHOs and APHOs. Therefore, there is no question of parity. Moreover, it is settled law that Tribunals should not engage themselves in determining pay scales as this is the function of the executive to be undertaken on the advice of expert bodies, such as a Pay Commission. We have already quoted from the judgment of the Tribunal in **OA No.86/2006 – Satya Prakash and Others Vs.U.O.I. & Others** and **OA No.449/2006 – Bhoop Singh Yadav VS. U.O.I. & Others** in which the Tribunal has cited cases of **P.V. Hariharan** (supra), **West Bengal Registration Service Association and Others** (supra) and **M.V.R.Rao and Others** (supra). Therefore, we cannot undertake such an exercise. On the direction of this Tribunal in OA Nos.86/2006 and 449/2006, the respondents have passed detailed and speaking order dated 21.04.2009 in which after considering parity with Laboratory Assistants, the pay scale of Sanitary Inspector, Malaria Inspector, Filaria Inspector have all been

upgraded to Rs.4500-7000 (pre-revised). We find no irregularity or anomaly in the action taken by the respondents. We also note that the respondents have themselves stipulated that no recoveries may be made.

9. In view of above position, OA does not succeed and is accordingly dismissed. There will be no order as to costs.

( P.K. Basu )  
Member (A)

( Syed Rafat Alam )  
Chairman

*Rakesh*