

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

O.A. No.413 of 2012

Date of CAV:23.11.2017.

Date of Order : 13.12.2017.

Between :

K.Danaiah, s/o K.Veeraswami,
aged about 70 yrs, Occ:Retd.Comounder
(Ayurvedic), r/o Thatipatri, Podalakur Mandal,
S.P.S.R., Nellore District-524 309. ... Applicant

AND

1. The Union of India, rep., by its
Secretary, Department of Labour, M/o Labour &
Employment, Srama Shakti Bhavan, Rafi Marg,
New Delhi-110 001.
2. The Director-General, M/o Labour, Govt. Of India,
Jai-Salman House, Mansingh Road,
New Delhi-110 011.
3. The Welfare Commissioner,
Labour Welfare Organisation,
Block 5, Ground Floor, Kendriya Sadan,
Sultan Bazar, Koti, Hyderabad-500 095.
4. The Welfare Administrator Incharge,
Labour Welfare Organisation, Block 5,
Ground Floor, Kendriya Sadan,
Sultan Bazar, Koti, Hyderabad. ... Respondents

Counsel for the Applicant ... Dr.A.Raghu Kumar

Counsel for the Respondents ... Mrs.K.Rajitha, Sr..CGSC

CORAM:

**THE HON'BLE MR.JUSTICE R.KANTHA RAO, MEMBER (JUDL.)
THE HON'BLE MRS.MINNIE MATHEW, MEMBER (ADMN.)**

ORDER

{ As per Hon'ble Mrs.Minnie Mathew, Member (Admn.) }

The applicant is aggrieved by the Annexure.A-I orders dated 17.02.2011 rejecting his claim for the V CPC scale of Rs.4500-125-7000/-.

2. The facts of the case are that after passing the 9th Standard and completing his course in Compounder Ayurvedic, the applicant joined the Ayurvedic Dispensary in MICA Mines Labour Welfare Fund (AP), Kalechedu, Nellore District, on 23.12.1964. He retired on attaining the age of superannuation on 30.06.2001. He contends that previously there was a post of Compounder in Allopathic or Ayurvedic dispensaries in Hyderabad. Later on the designation was changed as Pharmacist and that the duties of both the Compounder as well as Pharmacist is to issue medicines as prescribed by the Medical Officer.

3. It is the contention of the applicant that under the hospitals of the Central Government Health Scheme, the designation of the post of Compounder (Ayurvedic) is Ayurvedic Pharmacist and that the Pharmacists in the CGHS Dispensaries were given pay scale of Rs.4500-125-7000/- as entry grade, whereas in the respondent Organization, they were denied the V CPC Scheme on the ground that they have not passed Matriculation even though they performed the same duties. He also submits that at the time of his appointment, the minimum qualification required for Ayurvedic Compounder was a Middle Pass or a pass in 8th Standard and training of one year duration. Subsequently, the qualification was increased to 10th Standard and 2 years training. However, he was granted an entry grade scale of only Rs.3050-4590/- and an in-situ scale of Rs.3200-4900/- before he retired, whereas Pharmacists in CGHS Dispensaries were given entry grade pay scales of Rs.4500-125-7000/- in the V CPC.

4. The applicant avers that when the Ministry of Labour did not implement the V CPC recommendations in the case of Ayurvedic Doctors, the case of one Dr.K.Haranadha was considered and he was granted the V CPC pay scale. On obtaining the said information, the applicant submitted the Annexure.A-VII and A-VIII representations for grant of pay scale of Rs.4500-125-7000/-. However, his representations were rejected vide impugned orders.

5. It is submitted by the applicant that when a cadre has been re-designated with or without change of qualifications and a new pay scale is introduced, the same cannot be denied to the existing persons in the cadre who possessed the relevant qualifications at the time of their entry into the department and that when the designation of Ayurvedic Compounders is changed as Pharmacists (Ayurvedic), the entire class of Ayurvedic Compounders existing should be entitled for the V CPC scales of Rs.4500-125-7000/- as entry grade. Further, the law is well settled that when similar benefit is extended and when the V CPC scales are implemented in respect of Ayurvedic Compounders in CGHS, other similarly placed departments/establishments are also to be extended the similar benefit. The applicant therefore prays for setting aside the impugned orders and for a declaration that he is entitled to the scale of Rs.4500-125-7000 as entry grade and Rs.5000-150-8000/- as insitu promotion scale and Rs.5500-175-9000/- 2nd ACP scale with all consequential benefits.

6. The respondents have filed a reply statement stating that consequent on the implementation of the V CPC pay scales, the applicant was granted the scale of pay of Rs.3050-75-3950-80-4950/- vide the 4th respondent's orders dated 13.10.1997. The applicant accepted the arrears of pay and allowances and has kept quiet for 11 years and made a representation for a higher pay scale only on 04.11.2009.

7. The respondents assert that the Government has never re-designated the post of Ayurvedic Compounder as Ayurvedic Pharmacist under the Ministry of Labour. Further, the scale of pay applicable to the Pharmacist working in CGHS Dispensaries cannot be made applicable to the Ayurvedic Dispensaries under the Ministry of Labour. The applicant had already been granted a promotion scale of Rs.975-25-1150-30-1560/- (IV CPC) under the Scheme for Career Advancement of Group ' C' and ' D' employees with effect from 01.01.1992. He was also granted a second financial upgradation in the scale of pay of Rs.4000-100-6000/- (V CPC) with effect from 09.08.1999. The respondents further point out that the Additional Director, CGHS, Hyderabad, vide Annexure.R-1 letter dated 16.12.2010 had intimated the qualifications for the post of Pharmacists as Matriculation or equivalent; or Training in Upavaidya (Kalpada) Court of not less than 2 years from a Government Organization or recognized Private Institution or Training in Vaidya Visharad Awarded by All India Ayurvedic Congress/Ayurvedic Vishak/Ayurvedic Ratna and atleast 2 years experience as Ayurvedic Pharmacist in a recognized Ayurvedic Dispensary or Hospital or Pharmacy. It is also pointed that the applicant does not possess any of the aforesaid qualifications and he was only a Ayurvedic Compounder whose qualification was V Form failed. Hence, the pay scale of Rs.4500-125-7000/- granted to the CGHS Ayurvedic Pharmacist cannot be extended to the applicant. The respondents also state that there is no comparison of the applicant's case with that of Dr.K.Harnath Vaidya, who had represented for grant of pay scale of Rs.8000-275-13500/- as per the V CPC recommendations pointing out that he possessed a Degree in Ayurveda even at the time of his entry into Government service. Thereupon, the Ministry of Labour considered his case and directed the 3rd respondent to grant him the benefit of higher pay scale including pensionary benefits in accordance with rules. Thus, Dr.K.Harnath,

Vaidya, became eligible for grant of the higher pay scale as he possessed a Degree in Ayurveda even at the time of his entry into Government service. Thus, the applicant's case cannot be compared and is on a different footing.

8. The respondents also submit that the applicant had been advised to supply a copy of the order, if any, according to which the Ayurvedic Compounder is equivalent to the post of Pharmacist in Allopathic Dispensary and also the orders showing that the pay scale for the posts of Pharmacists working in Allopathic Dispensaries is also applicable to the post of Ayurvedic Compounder. However, he has failed to supply the required information. They also reiterate that the letter of the Additional Director, CGHS, Hyderabad, only speaks about the scale of pay made available to the Ayurvedic Pharmacists working with them and not to Ayurvedic Compounders as claimed by the applicant. They also state that the applicant has miserably failed to establish as to how he is entitled to the pay scale of Rs.4500-125-7000/- in the absence of the requisite qualification.

9. Heard the learned counsel on both sides and perused the record.

10. The learned counsel for the Applicant argued that the applicant's claim has been denied on the ground of non-passing of Matriculation and not undergoing two years training. However, at the time of the appointment of the applicant, the entry qualification was 8th class and any subsequent change of criteria should not cause prejudice to the applicant.

11. The short point for consideration in this OA is as to whether the applicant who was an Ayurvedic Compounder is entitled to the pay scale of Rs.4500-125-7000/-, which has been granted to Ayurvedic Pharmacists.

12. The applicant's claim for the said pay scale rests on his contention that the designation of Ayurvedic Compounder was changed as Pharmacist and that though he is designated as Compounder Ayurvedic Dispensary, his designation is equivalent to a Pharmacist. Consequently, he is eligible for the V CPC scale that has been given to the Ayurvedic Pharmacist. On the other hand, the respondents have categorically stated that the Government had never re-designated the post of Ayurvedic Compounder as Ayurvedic Pharmacist.

13. On perusal of the record, we find that the applicant has failed to show any material evidence to support his contention that the post of Ayurvedic Compounder was re-designated as Ayurvedic Pharmacist. We are therefore in complete agreement with the respondents that the applicant has failed to produce any orders of re-designation of the post of Ayurvedic Compounder as Ayurvedic Pharmacists or a notification that the said posts are equivalent. We also note that even in his Annexure.A-X and A-XI representations, he has been repeatedly submitting that his designation is equivalent to Pharmacist and that the nature of duties are same without supporting documentary evidence in this regard. As the applicant has not produced any orders to show that the post of Ayurvedic Compounder has been re-designated or declared as equivalent to that of Ayurvedic Pharmacist, there is absolutely no basis for admitting his claim for the higher scale of Rs.4500-125-7000/-.

14. The OA is devoid of merit and is accordingly dismissed. No costs.

(MINNIE MATHEW)
MEMBER (ADMN.)

(JUSTICE R. KANTHA RAO)
MEMBER (JUDL.)

Dated:this the 13th day of December, 2017

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