

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

O.A. No.77 of 2013

Date of CAV:20.02.2018.

Date of Order :02.04.2018.

Between :

D.P.R.Vithal, s/o Suryanarayana Sastry,
Hindu, aged 55 yrs, Working as
Technical Officer 'A' (Technical),
National Institute of Nutrition,
Hyderabad, r/o Quarter No.B-4,
NIN Quarters, Jamai Osmania,
Hyderabad-500 007.

... Applicant

And

1. Union of India, rep., by the Director General,
Indian Council of Medical Research,
V.Ramalingaswamy Bhavan, Ansari Nagar,
New Delhi-110 029.

2. National Institute of Nutrition,
Indian Council of Medical Research,
Jamai Osmania P.O., Hyderabad-500 007,
rep., by its Director.

... Respondents

Counsel for the Applicants ... Mr.T.P.Acharya

Counsel for the Respondents ... Mr.B.N.Sharma, SC for NIN

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.) }

This application has been filed seeking the following relief:

“To call for the entire records relating to impugned order bearing No.29/8/2006-RHN, dated 30.11.2012 issued by the Director General, ICMR, New Delhi, and set aside the same by declaring the same as arbitrary, illegal and contrary to pay fixation rules and consequently direct the respondents to notify the merger of posts covered under pay scales of Rs.5000-8000/-, Rs.5500-9000/- and Rs.6500-10500/- and fix the pay of the applicant as indicated in Table 4-B annexed to CCS (Revised Pay) Rules, 2008 with effect from 01.01.2006 and grant him all consequential benefits accrued thereon including arrears of pay fixation etc., within a specified time and pass such other and further order or orders as are deemed fit and in the circumstances of the case.”

2. The applicant submits that he was working as Technical Assistant in the 2nd respondent Institute in the pay scale of Rs.5000-8000/- as on 31.12.2005. Consequent on the recommendations of the VI Central Pay Commission with effect from 01.01.2006, the pay scale of Rs.5000-8000/- and Rs.5500-9000/- have been ordered to be merged with pay scales of Rs.6500-10500/- following the pay fixation table 4 (B) attached to the CCS (Revised Pay) Rules, 2008. The applicant's case is that the respondent society adopts all the Government orders and has also adopted the VI pay revision. Thus, the respondent society has no option other than to implement the VI CPC recommendations in toto as notified by the Government. However, in contravention of the decision of the Government on the VI CPC recommendations, the 2nd respondent kept the pay scale of Rs.5000-8000/- separately while merging the pay scales of Rs.5500-9000/- and Rs.6500-10500/-.

3. It is submitted by the applicant that under Part C of (Revised Pay for Certain Posts in Ministries) the Government of India notification there are only two options available to the authorities. The first option is that all the three pay scales of Rs.5000-8000/-, Rs.5500-9000/- and Rs.6500-10,500/- be merged and placed in the pay scale of Rs.6500-10500 (pre-revised) with Grade Pay of Rs.4200/-. The second option would be to merge the pay scales of Rs.5000-8000/- and Rs.5500-9000/- and place in the pre-revised pay scale of Rs.6500-10500/- with Grade Pay of Rs.4200/- and upgrade the pay scale of Rs.6500-10500/- to the Grade Pay of Rs.4600/- and merge the post with the Rs.7450-11,500/- pay scale, if such scale is existing.

4. The case of the applicant in a nutshell is that the respondent society have merged the pay scales of Rs.5500-9000/- and Rs.6500-10500/- with the pre-revised pay scale of Rs.7450-11500/- treating it as an upgradation while maintaining the pre-revised pay scale of Rs.5000-8000/- without any change. As the orders of the Government of India are binding on all Organizations which follow Central Pay Scale and Central Rules and Regulations, the respondent society has no authority to change or modify the rules. Table 4-B deals with the posts which are merged. The pay scales of Rs.5000-8000/-, Rs.5500-9000/- and Rs.6500-10500/- are declared as “merged” and accordingly pay has to be fixed in accordance with Table 4-B. As the directive to merge the pay scales is mandatory and binding on the respondents, he has to be placed in PB-2 grade as on 01.01.2006 and his pay fixed as laid down in Table 4 (B) annexed to CCS (Revised Pay) Rules 2008.

5 . It is also contended by the applicant that after the introduction of the revised pay structure with effect from 01.01.2006, the employees who were promoted after 01.01.2006, but before the issue of notification on 29.08.2008 replacing the pay scales with the revised Pay Bands, and who are in the pay scale of Rs.5000-8000/-, Rs.5500-9000/- and Rs.6500-10500/- will have to be fitted in the pre-revised pay scale of Rs.7450-11500/- and that the question of promotion of employees from Rs.5500-9000/- to Rs.6500-10500/- does not arise. However, the respondents have described the merger of pay scales Rs.5500-9000/- and Rs.6500-10500/- with Rs.7450-11500/- as an upgradation and given effect from 04.11.2009 instead of 01.01.2006. He also points out that the mention in the impugned order regarding the notification of the new recruitment rules with effect from 04.11.2009 has nothing to do with his claim.

6. The respondents have filed a reply statement refuting the contentions of the applicant. They submit that the pre-revised scale of Rs.5000-8000/- and Rs.5500-9000/- were not merged with the revised scale of pay of Rs.6500-10500/- in the respondent Institute. It is submitted that while the applicant is claiming Part-C Pay Bands of the VI CPC, the respondent Institute has adopted only Part-A Pay Bands of the VI CPC with effect from 01.01.2006 as indicated in Annexure.R-I Part-A Tables. Thus, the merger of the pre-revised scales of pay of Rs.5000-8000/-, Rs.5500-9000/- and Rs.6500-10500/- has not taken place in the Institute. As the applicant was working as Technical Assistant as on 01.01.2006 in the pre-revised scale of pay of Rs.5000-150-8000/-, he has already been placed in the corresponding Pay Band with Grade Pay of Rs.4200/- under Part- A Pay Bands adopted by the respondent Institute.

Subsequently, he was promoted as Senior Technical Assistant with effect from 08.04.2008 in the same Pay Band of Rs.9300-34,800/- with the same Grade Pay of Rs.4200/- per month. On his promotion to the post of Senior Technical Assistant with effect from 8.4.2008, his pay was fixed under FR 22 (I) (a) (i). Later, the first respondent issued revised Recruitment Rules 2009 on 4.11.2009 and re-designated the post of Senior Technical Assistant as Technical Officer with effect from 04.11.2009. Pursuant to this, the applicant was sanctioned the Grade Pay of Rs.4600/- per month in PB-2 Rs.9300-34800/- attached to the post of Technical Officer-A under Part-A Pay Bands. They have refuted the contention of the applicant that he was eligible for Grade Pay of Rs.4600/- per month in PB-2 with effect from 01.01.2006 and have pointed out that he was holding only the post of Technical Assistant as on 01.01.2006 and was eligible only to get the Grade Pay of Rs.4200/- under Part A Pay Bands.

7. The applicant has filed a rejoinder reiterating that the respondents are bound to implement all the accepted recommendations incorporated in Part-A , Part-B or Part-C and that non-merging of Rs.5000-8000 with the higher pay scale is a violation of the Government orders and amounts to denial of the benefits conferred by the Government of India. He has also pointed out that the Respondent Institute has contended that they have adopted only Part A Pay Bands of VI CPC without filing any supporting material. He also submits that the pay fixation and placement of the existing employees in the relevant Pay Band has no relation to the Recruitment Rules and have no relevance to the issue raised in this OA.

8. We have heard the learned counsel on both sides and perused the record.

9. The short issue before us is as to whether the applicant, who was working as Technical Assistant in the pay scale of Rs.5000-8000/- as on 31.12.2005, is entitled to claim the benefit of merger of the pay scale of Rs.5000-8000/- with Rs.5500-9000/- and Rs.6500-10500/- mentioned in Part-C of the VI CPC notification.

10. The applicant's claim is that the Government of India orders dated 29.08.2008 are binding in toto on the respondent Institute and that he is entitled to the benefit envisaged in Para (ii) of Part-C.

11. On the other hand, the respondents' contention is that they have adopted only Part-A Pay Band of the VI CPC with effect from 01.01.2006 and have correctly fixed the pay of the applicant in PB-2 Rs.9300-34800/- with Grade Pay of Rs.4200/-, which is the corresponding scale of the pre-revised scale of Rs.5000-8000/- as per Part-A C. The respondents' contention is that Part-C of the VI CPC is not applicable to them.

12. We have perused Part-C which states as follows:

“REVISED PAY STRUCTURE FOR CERTAIN POSTS IN MINISTRIES,
DEPARTMENTS, UNION TERRITORIES” .

(i)

(ii) On account of merger of pre-revised pay scales of Rs.5000-8000, Rs.5500-9000 and Rs.6500-10500, some posts which presently constitute feeder and promotion grades will come to lie in an identical grade. The specific recommendations about some categories of these posts made by the Pay Commission are included Section II of Part C. As regards other posts, the posts in

these three scales should be merged. In case, it is not feasible to merge the posts in these pay scales on functional considerations, the posts in the scale of Rs.5000-8000 and Rs.5500-9000 should be merged, with the post in the scale of Rs.6500-10500 being upgraded to the next higher grade in pay band PB-2 i.e., to the grade pay of Rs.4600 corresponding to the pre-revised pay scale of Rs.7450-11500. In case a post already exists in the scale of Rs.7450-11500, the post being upgraded from the scale of Rs.6500-10500 should be merged with the post in the scale of Rs.7450-11500.”

13. From the very title of Part-C, it is seen that Part-C applies only to certain posts in Ministries/Departments/Union Territories. The first respondent in this OA is the Indian Council of Medical Research and the 2nd respondent is the National Institute of Nutrition, which is under the control of Indian Council of Medical Research. Both these organizations will not fall in the category of Ministries/Departments/Union Territories. The respondents have categorically stated that the Institute has adopted only Part-A Pay Bands of VI CPC as indicated in the Part-A Tables. When the Respondent-Institute is not a Ministry/Department/Union Territory, the question of applying these rules ipso facto to the respondent Institute does not arise.

14. In this view of the matter, the very claim of the applicant for merger of the three pay scales so as to give him the benefit of the higher Grade Pay of Rs.4600/- with effect from 01.01.2006 is without any foundation as the directions in Part-C are not binding on the Respondent-Institute. The pay fixation as illustrated in Table 4-B applies only to those cases where the three pay scales of

Rs.5000-8000/-, Rs.5500-9000/- and Rs.6500-10500/- have been merged. Since merger has not taken place in the Respondent-Institute, the applicant is not entitled to the pay fixation as shown in Table 4-B. Further, as rightly pointed out by the respondents, the pay scale of Senior Technical Assistant as on 01.01.2006 was Rs.5500-9000/- which has been merged initially in PB-2 Rs.9300-34800 with Grade Pay of Rs.4200/- . After the issuance of the new Recruitment Rules on 04.11.2009, the Senior Technical Assistants who were in the scale of Rs.5500-9000 were designated as Technical Officer A and placed notionally in the scale of Rs.6500-10500/- with effect from 4.11.2009. As the designation of the Technical Officer itself was created only after the issuance of the new Recruitment Rules with effect from 04.11.2009, there is no merit in the applicant's contention that he is entitled to the higher grade of Rs.6500-10500/- with corresponding Grade Pay Rs.4600/- in VI CPC with effect from 01.01.2006..

15. In the result, we find no error in the impugned orders. The OA is liable to be dismissed and is accordingly dismissed. There shall be no order as to costs.

(MINNIE MATHEW)
MEMBER (ADMN.)

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

Dated: this the 2nd day of April, 2018

Dsn.