

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA NO. 2070/2003

This the 6th day of January, 2005

HON'BLE MR. JUSTICE M.A.KHAN, VICE CHAIRMAN (J)
HON'BLE MR. S.K.MALHOTRA, MEMBER (A)

Sh. R.D.Gupta, Retd. U.D.C. (SG),(Group 'C'),
From C.S.I.R., New Delhi
R/o 4/6, Jai Dev Park, New Delhi-26.

(By Advocate: Sh. ^{R.A.}~~Praveen~~ Vashisht)

Versus

Union of India through the
Director General, Council of Scientific & Industrial Research,
Rafi Marg, New Delhi-110001.

(By Advocate: Sh. Praveen Swarup)

ORDER (ORAL)

Hon'ble Mr. Justice M.A.Khan, Vice Chairman (J)

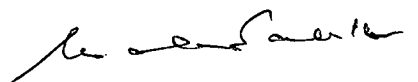
Applicant has filed the OA for revision of his pension.

2. Applicant was working as UDC (Selection Grade) in the respondent Council of Scientific and Industrial Research (CSIR) in the pay scale of Rs.425-700. He took voluntary retirement from service w.e.f. 3.6.1985. The pay scale of Rs.425-700 was replaced by the pay scale of Rs.1400-2300 in accordance with the recommendation of the Central Pay Commission w.e.f. 1.1.1986. As per the decision of the CSIR the pension of the applicant was revised and was fixed in the revised pay scale of Rs.1400-2300. The replacement scale of the pay scale of Rs.1400-2300 as per the report of the 5th Central Pay commission was Rs.4500-7000. Accordingly, the pension of the applicant was revised and fixed in this scale w.e.f. 1.1.1996. But the applicant is aggrieved. According to him, the pay scale of UDC (Selection Grade) was revised to Rs.1400-2600 w.e.f. 1.5.1987. By subsequent order dated 9.6.1995 this scale has been revised to the scale of Rs.1640-2900 w.e.f. 1.1.1986. It is submitted that the replacement scale of the

[Handwritten signature]

pay scale of Rs.1640-2900 as per the report of the 5th Pay Commission is Rs.5500-9000. According to him, the applicant is entitled to the fixation of his pension in the revised scale of Rs.5500-9000. As a consequence he should be granted 50% of the minimum of this grade, i.e., Rs.2750/- as his pension w.e.f. 1.1.1996. According to him, he filed representations to the respondents but to no effect. Hence this OA.

3. The respondents contested the OA. It is stated that the applicant was working in the scale of Rs.425-700. He took voluntary retirement on 3.6.1985. He had been requesting for re-fixation of his pension w.e.f. 1.1.1986 in the scale of Rs.1640-2900 and later on in the pay scale of Rs.5500-9000 w.e.f. 1.1.1996. His pay was fixed notionally w.e.f. 1.1.1986 in the pay scale of Rs.1400-2300 and in the pay scale of Rs.4500-7000 w.e.f. 1.1.1996 as the pay scale of UDC (Selection Grade) in the CSIR at the time of petitioner's voluntary retirement was only Rs.425-700 which was revised to Rs.1400-2300 w.e.f. 1.1.1986. Therefore, his pension will have to be regulated in respect of the corresponding replacement pay scale of Rs.425-700 (pre-revised) and Rs.1400-2300/4500-7000 (revised). It was further stated that on the basis of the recommendation of the 4th Pay Commission the scheme of selection grade was abolished in Central Government w.e.f. 1.1.1986 but in the CSIR the selection grade of UDC was abolished w.e.f. 1.5.1987 after it was decided by the governing body of the CSIR in the meeting held on 27.4.1987 that all the incumbents holding UDC (Selection Grade) post may be promoted to the post of Assistant General in the pay scale of Rs.1400-2600. The scale of Assistant General was subsequently revised from Rs.1400-2600 to Rs.1640-2900 with retrospective effect, i.e. from 1.1.1986 which was again revised to Rs.5500-9000 w.e.f. 1.1.1996. Had the applicant continued in service, he would have also been considered and promoted as Assistant General w.e.f. 1.1.1986 along with other UDC (Selection Grade), and placed in the pay scale of Rs.1400-2600/1640-2900 (pre-revised) and 5500-9000 (revised). Since the applicant had taken voluntary retirement on 3.6.1985, the benefit of



19

consideration and promotion as Assistant (General) and subsequent revision of pay in the scale of Rs.5500-9000 w.e.f. 1.1.1996 was not available to him. The selection grade in the UDC in the CSIR continued till 1.5.1987 so the incumbent holding the selection grade of UDC were granted corresponding scale of Rs.1400-2300 which was revised scale of Rs.425-700 and which was subsequently revised to Rs.4500-7000 w.e.f. 1.1.1996 on implementation of 5th Pay commission. It is submitted that the case of the applicant is not tenable and it should be rejected.

4. We have heard the parties and have perused the relevant record.

5. Counsel for applicant has argued that the pay scale of UDC (selection grade) was revised to Rs.1400-2600 w.e.f. 1.5.1987 and it was further revised to Rs.1640-2900 on 9.6.95 with retrospective effect from 1.1.1986. It is submitted that the pay scale of Rs.1640-2900 has since been revised to the pay scale of Rs.5500-9000 w.e.f. 1.1.1996. The applicant has been unjustly denied the fixation of pay in the scale of Rs.5500-9000 by the respondents causing recurring loss to the applicant. It is submitted that the pension of the applicant, as per the extant rules would be 50% of the minimum of the scale of Rs.5500-9000 in other words Rs.2750/- p.m. w.e.f. 1.1.1996.

6. Conversely, the argument of the counsel for the respondents is that the applicant will not be entitled to the fixation of his pension in the scale of Rs.1640-2900 w.e.f. 1.1.1986 and in its replacement scale of Rs.5500-9000 w.e.f. 1.1.1996. It is argued that the revised scale of the pay scale of Rs.425-700 was Rs.1400-2300. It is further submitted that by a decision dated 27.4.1987 all incumbents who were holding the post of UDC (selection grade), i.e., working in the pay scale of Rs.1400-2300 were promoted to the post of Assistant General in the pay scale of Rs.1400-2600 w.e.f. 1.5.1987. It is argued that the pay scale of UDC (selection grade) was not revised by the respondents CSIR but the persons holding the post of UDC (selection grade) were promoted to the post of Assistant (general) which was carrying the pay scale of Rs.1400-2600 at that time which

later on was revised to the scale of Rs.1640-2900 w.e.f. 1.1.1986. Applicant was not holding the post on 1.5.1987, therefore, he could not be considered for promotion to the post of Assistant (General) in the pay scale of Rs.1400-2600 (pre-revised) and revised Rs.1640-2900. His pension was fixed in the pay scale of Rs.1400-2300 which was the revised scale of Rs.425-700 and after the recommendation of the 5th Pay Commission that scale was revised to Rs.4500-7000, therefore, the pension of the applicant was correctly revised. It is controverted that the applicant is entitled to the fixation of his pension in the revised pay scale of Rs.5500-9000, which is the replacement scale of Rs.1640-2900.

7. The applicant himself has filed the copy of the summary of the recommendation of the High Powered Committee of the CSIR as Annexure A-4. The relevant extract of the recommendation of the Committee is reproduced below:-

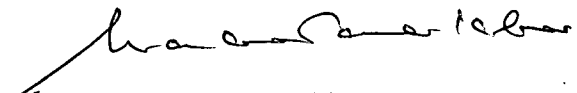
“The Governing Body also approved that all the incumbents of the special grades may be promoted from 1.5.1987 to the higher position, i.e. Rs.1200-2040, Rs.1400-2600, Rs.1640-2900 and Rs.1400-2600 respectively. The Governing Body also approved the adoption of the grade of Rs.1400-2600 in place of the grade of Rs.1400-2300 for the Stores and Purchase Assistants Grade V with effect from 1.5.1987. The revision of the scale of pay for Junior Translator (Hindi) from Rs.425-700 to Rs.1400-2600 from 1.1.1986 was also approved.”

8. In para 5 of the OA, applicant has stated that “the governing body at its meeting held in 9.9.1987 approved that all the incumbents of the special grades may be promoted from 1.5.1987 to higher position to Rs.1200-2040, Rs.1400-2600, Rs.1640-2900 and Rs.1400-2600 respectively. The Governing Body also approved the adoption of grade Rs.1400-2600 in place of grade of Rs.1400-2300. therefore, the applicant seeks the relief for fixation of his pension on re-fixation of his pay on notional basis, in the scale of Rs.1400-2600 and was further revised to the scale of Rs.1640-2900 in terms of the respondents letter No.31(11)90-Gen dated 9.6.1995”.

9. The applicant has himself alleged that the employees who were holding the post of UDC (Selection Grade) were given promotion to the grade of Rs.1400-2300 w.e.f. 1.5.1987. In other words, he admitted that the pay scale of UDC (Selection Grade) was not revised from Rs.1400-2300 to Rs.1400-2600. He had also not denied that the post of UDC (Selection Grade) had been abolished by the respondent w.e.f. 1.5.1987 and all the employees who are working in that grade were promoted to the post of Assistant (General) which was carrying the pay scale of Rs.1400-2600. The document Annexure A-4 filed by him relevant extract of which is reproduced above belie the contention of the applicant that the scale of pay Rs.1400-2300 was revised to Rs.1400-2600 w.e.f. 1.5.1987 and it was not granted to the UDC (Selection Grade) on their promotion to the post of Assistant General. The claim of the applicant is that his pension ought to have been fixed in the grade of Rs.1640-2900 w.e.f. 1.1.1986 since it has been revised to Rs.5500-9000 w.e.f. 1.1.1996, therefore, is wholly misconceived. Persons holding the posts of UDC (Selection Grade) were promoted to the post of Assistant (General). Applicant was not working as UDC (Selection Grade) when other employees in position were considered and were promoted to the higher post. Simply because all the UDCs (Selection Grade) were promoted to the grade of Assistant (General) carrying higher pay scale which was subsequently revised w.e.f. 1.1.1986 would not entitle the applicant to have his pension fixed in the pay scale of Rs.1640-2900 w.e.f. 1.1.1986 and in the revised scale of Rs.5500-9000 w.e.f. 1.1.1996.

10. As a result, the OA has no merit and is dismissed. No costs.


(S.K.MALHOTRA)
Member (A)


(M.A. KHAN)
Vice Chairman (J)

'sd'