

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

15

O.A. NO. 58/2003

NEW DELHI THIS 30th DAY OF JUNE 2004

HON'BLE SHRI KULDIP SINGH, MEMBER (J)
HON'BLE SHRI S.A. SINGH, MEMBER (A)

1. Karan Singh
S/o Sh. Harbans Lal,
R/o 1852 Rama Block Bholu Nath Nagar,
Shahdra, Delhi -110032
2. Tara Singh S/o Shri Param Sukh
R/o C/o Shri Rajeev Kr. Anand,
1/10, Railway Qtr (Railways Quarter)
Lodhi Colony, Lodhi Road, New Delhi
3. Rajesh Kumar S/o Sh. Tej Singh
R/o K-Block, House No. 995
Mangole Puri, Delhi-83
4. Ashok Kumar, S/o Late Hubb Lal
R/o RZ-B-80, Bindapur Extension,
Uttam Nagar, New Delhi - 110059
5. Biru Gari
S/o Shri Gandura Gari,
H. No. 66, Jai Vihar,
Banee Camp, Nazafgarh
Delhi.

.....Applicants

(By Shri M K Bhardwaj, Advocate)

VERSUS

Union of India through:

1. The Secretary,
Ministry of Health,
Deptt of Health & Family Welfare,
Nirman Bhawan, New Delhi
2. The Director General of Health Services,
Ministry of Health,
Deptt of Health & Family Welfare,
Nirman Bhawan, New Delhi
3. The Director Admn (H)
DGHS (MH Sec)
Ministry of Health,
Deptt of Health & Family Welfare,
Nirman Bhawan, New Delhi
4. The Medical Superintendent,
Safdarjang Hospital, New Delhi



5. Head of the Department,
Re-habilitation,
Safdarjang Hospital, New Delhi.

.....Respondents

(By Shri S. Mohd. Arif, Advocate)

ORDER

BY HON'BLE SHRI S.A. SINGH, MEMBER (A)

The applicants 5 in number joined the Safdarjang Hospital between 1991 to 1996 in the Prosthetic and Orthetic Workshop of the Department of Rehabilitation . They had joined as Wood worker , metal worker , shoe maker, leather worker etc. and were subsequently re-designated vide letter dated 13.8.96 as Junior Technicians in the pay sales of Rs. 1150-1500. Their Recruitments Rules specify matriculation or its equivalent qualification from a recognised Board with a certificate from a recognised Institution in the trade with few years experience in the field.

2. It is the averment of the applicants that they come under the category of other technicians specified in the CCS revised Pay Rules 1997 issued after the recommendations of 5 CPC were accepted. As per recommendations for para medical staff contained in para 52.111 of the 5th CPC report those posts requiring matriculation and some experience for direct recruitment should be placed in the scale of

Rs.4,000 - 6,000/- whereas the respondents have erroneously placed them in the pay scale of Rs. 3050-4950/-.

3. Aggrieved by the respondents denial of the scale of Rs. 4000-6000/- the applicant filed an OA No. 43/2002 in this Tribunal which was decided on 7th January 2002. The respondents were directed to pass a reasoned and speaking order within 2 months. The respondents complied with these directions by passing the impugned order dated 29.10.2002 where it has been indicated that it is not possible to grant the applicants the scale of Rs. 4,000 - 6000/- . Aggrieved by this order the applicants filed the present OA praying that this impugned order be set aside and the applicants be granted the pay scale of Rs.4,000 - 6,000/- with all consequential benefits.

4. The main ground of the applicants for grant of the pay scale of Rs. 4000 - 6000/- is that they are covered under the category of "Other Technicians" as per CCS (Revised Pay) Rules. They fulfil the conditions in the Revised pay Rules as such they are entitled to be placed in the higher pay sale of Rs. 4000 - 6000/- They also claimed hostile discrimination by granting pay scale of Rs. 3050 - 4990/- in lieu of Rs. 4000 - 6000/- on the ground that other technicians have not only been granted 4000 to 6000/- but also upgraded to the Scale of Rs. 5000 - 8000/- .



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5. Needless to mention the case has been strongly contested by the respondents on the ground that applicants were drawing the pay scale of Rs. 1150 - 1500 and they have been granted the normal replacement scale of Rs. 3050 - 4590/-. Further that granting of pay scale on the recommendations of 5th CPC is the policy matter of the Government and it has been done after taking into consideration all factors like qualification, skills, efforts and responsibility, it is therefore not correct to make comparison with other technicians as is being made by the applicants. They also reiterated the arguments given in the impugned order in rejecting the claim of the applicants.

6. Heard the parties and gone through the documents brought on record. It is admitted fact that the applicants joined Safdarjang Hospital Prosthetic and Orthetic Workshop as Artisans like Wood worker, metal worker, shoe maker etc.. This is also apparent from the Recruitment Rules placed on record. The letter dated 13.8.1996 changed the designation of the applicants from wood worker etc. to junior technicians as indicated. It is clear from the letter that the applicants working in the Prosthetic and Orthetic Workshop and not in any laboratory. Their re-designation as Junior Technician does not change this fact.

7. The report of the 5th CPC in para 52.35 reads as under:

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"52.35 Personnel concerned with medial and health delivery in Central Government hospitals, teaching, training and research institutions have been broadly divided into three categories - medical, para-medical and non-medical. All persons who do not undergo a formal training in modern medicine as prescribed by the Medical Council of India, but work with medical men in an institution, in the field or community for the care of patients or for training of students are para-medical personnel. At least 11 categories exist among such personnel as follows:-

- i) Clinical and Social Psychologists;
- ii) Dieticians;
- iii) Medical Laboratory staff and Technicians;
- iv) Nursing Staff;
- v) Operation theatre staff and Technicians;
- vi) Para-dental staff;
- vii) Pharmacists, Compounders and Dispensers;
- viii) Physiotherapists and Occupational therapists;
- ix) Public & Social Health Workers (Health Educators, social Workers, Family Planning Workers, Health, Malaria and Sanitary Inspectors, etc.).
- x) Radiographers, X-ray Staff, Dark Room Staff; and
- xi) Other para-medical staff (Prosthetists, Orthotists, Audio visual Technicians, EEG/ECG/EMG Technicians, Limb-fitters, Bracemakers, etc.)

8. The applicants have claimed that they come under the category (xi) of other para medical staff and as per the recommendations of para 52.111 they would become entitled for the scale of Rs.4000 -6000/- . The definition of para medical staff as given in the 52.35 referred to above is that all those who do not undergo formal training in modern medicine but work with medical men for the care of patient or for training of

students are para-medical personnel. As workshop staff they cannot be considered to be medical men/personnel and hence it is difficult to see how they can claim to come under the category of other para medical staff. The respondents have pointed out in their impugned order that the hierarchy of the applicants is as under:

Junior Technician:	Rs. 3050 - 4950/-
Sr. Technician :	Rs. 4500 - 7000/-
Tutor :	Rs. 5500 - 9000/-

The hierarchy of technicians referred to under para 52.111 of the 5th CPC report are as under:

Lab Asstt:	Rs.3050 - 4590/-
Lab. Technician:	Rs.4500 - 7000/-
	Rs. 5000- 8000/-
Sr. Technician Asstt	Rs. 5500 - 9000/-


9. The comparison of the two categories shows that the hierarchies are three tier and equivalent at all levels in forms of scales of pay except at the entry levels of Jr. Technician and Lab. Assistant . In fact the applicants as Jr. Technicians in hierarchy are comparable with Lab Asstt. It is seen that the applicants are in the higher pay scale of Rs. 3050-4950 in comparison to the pay scale of Lab. Assistants which is Rs. 3050-4900/-.

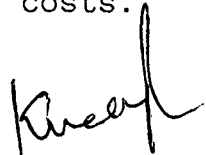
10. From the comparison of the hierarchy it is apparent that the applicants can at most compare themselves with Lab. Asstt and not Lab. Technician. The entry level qualifications are different. For the applicants it is matriculation with certificate in

respective trade with 2 years experience and for the technician in EEG, ECG is either a Degree in Science with 2 years experience or a Matric Pass with 2 years Diploma in MLT, Electronics, etc. plus 1-2 year's experience. Hence these two categories cannot be considered as comparable or equivalent.

11. The applicants who were in the pay scale of Rs. 1150 -1500/- have been given the normal replacement scale recommended by the 5th CPC Rs.3050-4950/-. We find that the whole issue has arisen because the applicants who were originally with the designation of metal worker etc. were re-designated vide letter dated 13.8.1996 as Jr. Technicians. The re-designation not make them para medical staff, as such, they cannot claim that they come under the category of technical para medical staff shown in 11.

12. In view of the above the OA is without merit and is dismissed without any order as to costs.


(S.A. Singh)
Member (A)


(Kuldip Singh)
Member (J)

Patwal/