

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

Original Application Nos.21/1344/2013 & 21/1345/2013

Reserved on: 23.10.2019

Pronounced on: 14.11.2019

Between:

M. Nooka Raju, S/o. Dharmaiah,
Aged about 59 years, Occ: Joint Director,
O/o. Directorate of Oil Seeds Development,
Government of India, Telhan Bhavan,
Himayatnagar, Hyderabad – 500 029.

... Applicant (In both OAs)

And

1. Union of India, Rep. by its Secretary,
Ministry of Agriculture,
Department of Agriculture and Cooperation,
Government of India, Krishi Bhavan, New Delhi.
2. The Joint Secretary (Crops),
Department of Agriculture and Cooperation,
Government of India, Krishi Bhavan,
New Delhi – 110014.
3. The Director,
Directorate of Oil Seeds Development,
Government of India, Telhan Bhavan,
Himayatnagar, Hyderabad – 500 029.

... Respondents (In both OAs)

Counsel for the Applicant ... Dr. A. Raghu Kumar (In both OAs)

Counsel for the Respondents ... Mr. V. Vinod Kumar, Sr. CGSC
(In both OAs)

CORAM:

Hon'ble Ms. Manjula Das, Judicial Member
Hon'ble Mr. B.V. Sudhakar, Administrative Member

ORDER (COMMON)
{As per B.V. Sudhakar, Administrative Member}

2. The OAs have been filed by the applicant against the inaction of the respondents in implementing the scales of pay of Rs.6500-10,500 in Senior Technical Assistant (Agriculture and Planning) grade and Rs.7500-12000 in Assistant Director Grade. Applicant being the same and issues agitated upon are similar as well as against the same respondent, a common order is issued.

3. Brief facts which require to be adduced are that the applicant was promoted as Senior Technical Assistant on 11.1.1995 in the Directorate of Oil Seeds Development, Ministry of Agriculture & Cooperation, Hyderabad and as Assistant Director on 16.2.1999 in the Directorate of Tobacco Development, Ministry of Agriculture and Cooperation, Chennai. Consequent to accepting Para 56.10 of the 5th Pay Commission Recommendations by the Govt. of India, Ministry of Agriculture and Cooperation has allowed pay scale of Rs.6500-10,500 for Senior Technical Assistant grade and Rs.7500- 12000 to the Assistant Director (Crops) vide Memos dated 27.9.1999 and 24.3.2000 respectively. Applicant represented for considering his request to revise his pay in Senior Technical Assistant grade and on rejecting the same vide lr dated 13.9.2006, he took it up with DOPT on 27.7.2010 for which no reply has been received till date. Similarly, for revised pay in Assistant Director grade, applicant preferred several representations but of no avail. Aggrieved over the same, OAs have been filed.

4. The contentions of the applicant are that the recommendations of the 5th CPC were made applicable only to certain departments ignoring the Planning Wing and the Crop Development Directorates. This has resulted in denial of grant of upgraded scales to the applicant and thus, it is pure discrimination. In the process Articles 14 and 16 of the Constitution have been violated. The applicant has Post Graduate Qualification in Economics with specialisation in Agriculture Economics and is eligible for the benefit sought.

5. Respondents oppose the claim of the applicant by stating that the recommendations of the 5th CPC apply to the Department proper and not to the subordinate office like the Crop Development Directorates (CDDs) functioning all over the country. In the absence of any specific recommendation in the 5th CPC for the upgradation of pay scale to the Senior Technical Assistant and Assistant Director grade in the Crop Development Directorates, applicant is not eligible. The replacement pay scale of Rs.5500-9000 in STA grade and Rs.6500-10,500 in Assistant Director Grade were granted. 6th Pay Commission has found that the pay scales granted to various posts in CDDs were appropriate. Mr. A.L Waghmare & 5 others STAs working in CDDs filed OA 1263/2010 in the Hon'ble Principal Bench (PB) of this Tribunal, wherein it was directed to examine afresh the issue of up-gradation of scale in STA grade. Accordingly, it was examined and rejected on 14.6.2011. On rejection, another OA 3954 /2011 was filed for up-gradation of pay

scales in STA and AD grades respectively, which was rejected by the Hon'ble Principal Bench of this Tribunal on 10.2.2014.

Rejoinders and additional replies filed by the parties have been gone into and those relevant have been noted to arrive at the conclusion.

6. Heard both the counsel and perused the pleadings on record.
7. i) The issue anchors around the recommendation of the 5th CPC to allow higher pay scales to STAs and Assistant Directors working in the Ministry of Agriculture and Cooperation. Respondents claim that the upgraded scales are applicable only to those working in the Department proper and not to those like the applicant, working in the subordinate offices namely Crop Development Directorates. The dispute can be resolved by perusing the recommendation of the 5th CPC which is extracted hereunder:

“DEPARTMENT OF AGRICULTURE & CO-OPERATION

56.10 Scientific and Technical Staff.

Among the scientific and technical staff there are 12 Technical/Jr. Technical Assistants in the scale of pay of Rs. 1400-2300. While 9 of them are required to possess a degree in Agriculture as the minimum qualification 3 of them, working in the Credit Division have been recruited with qualifications in Economics and Statistics. We recommend that posts of Technical Assistants where a degree in science is the minimum essential qualification may be placed in the scale of Rs. 1600-2660. 66 Senior Technical Assistants (including 6 in Economics and Statistics and 2 in Law), most of whom are direct recruit post-graduates and graduates in Agricultural sciences With direct promotion avenues to Group A in their respective Divisions, after rendering 5-8 years of service, are in the scale of pay of Rs. 1640-2900. They have represented that over a period of time both Section Officers as well as Assistants of the Central Secretariat Services have been upgraded. A degree in Agriculture or Agricultural sciences does not take less than 4 years of education. We recommend that 33 posts of Senior Technical Assistants should be placed in the scale of pay of Rs. 2000-3500 and be re-designated as Senior Technical Assistant Grade I, retaining the balance 33 posts in the existing pay scale but with the designation of Senior Technical Assistant Grade II. The next higher grade comprises

10 posts of Technical Officers, Assistant Directors and Assistant Development Officers in the scale of pay of Rs.2000-3500. As direct recruitment already exists at the two lower levels of Senior Technical Assistant and Technical Assistant, this grade may be retained as a 100% promotion grade for the Senior Technical Assistants and placed in the scale of pay of Rs. 2500-4000. The next higher level will be the Central Agriculture Service proposed in para 62.13. Like all organised Group A services, the Central Agriculture Service may provide for a percentage of promotion not exceeding 50%.

56.12 Constitution of an Expert Committee.

We recommend that Government should constitute an Expert Committee to examine the need to have such a large administrative and auxiliary workforce, particularly when the attached and subordinate offices themselves have such categories and subject-matter specialists. In particular transfer of centrally sponsored schemes and overlapping subjects should also be examined. The Expert Committee should be under the Department of Administrative Reforms. Another Committee, under the Planning Commission should review the functioning of the centrally sponsored schemes and suggest which of these can be transferred to States so that the Centre's presence in size and stature on the subject can be optimised. This Committee should also look into the need for the large number of subordinate offices and commodity development Directorates under the Department."

As can be seen from the above, the 5th CPC recommendations were specific and confined to the posts operated in the department proper. Nowhere the aspect of higher scales for various posts in subordinate offices was dealt with. In fact, the 5th CPC at para 56.12 has only suggested formation of an Expert Committee to look into the need for a large number of Subordinate offices. Respondents have granted the applicant replacement scales eligible in STA and Assistant Director Grades, as per 5th CPC. Going a step further, we observe that the 6th CPC has emphatically stated in para 7.1.13 that the pay scales in various subordinate offices of the Ministry are found to be appropriate and require no revision, as under:

Higher pay scales have been demanded for various posts in Directorates of Wheat, Rice, Millet, Pulses, Jute Development and

Sugarcane. The existing pay scales of the various posts are appropriate and no anomalies exist therein. The ministerial category and Group D posts shall in any case be governed by the recommendations made in Chapter 3.1, 3.8 and 3.7 respectively. No recommendation specifically upgrading any of the posts in this Directorate is justified.

ii) Pay revision and upgradation of scales is done by an expert committee like the Pay Commission which has the wherewithal to do so. The Pay Commissions go into complex aspects like job design, nature of the job, financial resources of the Govt. etc and make the recommendations, which are not to be tinkered with, as observed by the Hon'ble Supreme Court as under, in :

a. Union of India v. Dineshan K.K.,(2008) 1 SCC 586,

“It has been observed that equation of posts and equation of pay structure being complex matters are generally left to the executive and expert bodies like the Pay Commission, etc.”

b. State of Bihar v. Bihar Veterinary Assn.,(2008) 11 SCC 60, at page 64

“13. If the courts start disturbing the recommendations of the pay scale in a particular class of service then it is likely to have cascading effect on all related services which may result into multifarious litigation. The Fitment Committee has undertaken the exercise and recommended the wholesale revision of the pay scale in the State of Bihar and if one class of service is to be picked up and granted higher pay scale as is available in the Central Government then the whole balance will be disturbed and other services are likely to be affected and it will result in complex situation in the State and may lead to ruination of the finances of the State.”

In view of the above, applicant making a reference to the 6th CPC in the rejoinder and asking for a particular scale as was given to STA (Manure) does not stand to logic.

iii) Further, OA 3954 /2011 filed by similarly situated employees in an identical matter was dismissed by the Hon'ble Principal Bench on 10.2.2014. The same is binding as observed by Hon'ble Supreme Court

in *S.I. Roopal And Anr vs Lt. Governor Through Chief Secretary, Delhi & Ors., in Appeal (civil) 5363-64 of 1997*

iv) Therefore, based on the aforesaid, there is no merit in the case either on facts or on law and hence the OAs are dismissed with no order as to costs.

(B.V. SUDHAKAR)
ADMINISTRATIVE MEMBER

(MANJULA DAS)
JUDICIAL MEMBER

Dated, the 14th day of November, 2019

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