

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

(12)

OA NO. 1669/99
New Delhi, this the 17th day of August, 2000

HON'BLE MR. JUSTICE V.RAJAGOPALA REDDY, VICE CHAIRMAN (J)
HON'BLE MR. GOVINDAN S. TAMPI, MEMBER (A)

In the matter of:

1. Sh. Roshan Lal,
S/o Sh. Chandgi Ram, aged 52 years,
R/o B-74, Hari Nagar,
New Delhi-110064.
(Retd. (V.R. as Foreman from
Minor Irrigation Division,
Flood Control,
Govt. of N.C.T., Delhi.
2. Sh. Ved Prakash
S/o Sh. Deep Chand,
aged about 58 years,
House No. 305, R/o Vill. & P.O. Mundka,
Delhi-110041.
(working as Foreman in Minor
Irrigation Deptt., Flood Control,
Govt. of NCT Delhi. Applicants

(By Advocate: Sh. S.K.Jain)

vs.

1. Govt. of NCT of Delhi through
its Chief Secretary,
Old Secretariate,
5, Shambhunath Mukherjee Marg,
Delhi.
2. The Chief Engineer (I&F),
IV Floor, ISBT Building,
Kashmere Gate,
Delhi.
3. Supdt. Engineer (MID),
Irrigation & Flood Control Deptt.,
Sector-XIV, Rohini,
Delhi-85.
4. The Executive Engineer,
Minor Irrigation Division,
Govt. of NCT of Delhi,
Sector-XIV, Rohini,
Delhi. Respondents

(By Advocate: Sh. Amit Rathi proxy for
Sh. Devesh Singh)

ORDER (ORAL)

By Hon'ble Sh. V.Rajagopala Reddy, Vice Chairman (J)

The applicant No.1 was initially appointed as Operator in 1973 in the Minor Irrigation Department in the scale of Rs.260-400. Subsequently, he was promoted as a Foreman on 31.3.84 from which post he took voluntary retirement w.e.f. 30.11.95. Applicant No.2 joined as Tubewell Operator in 1965

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and later promoted as Foreman in 1984. As per the IVth Pay Commission's recommendations the respondents has wrongly fixed the applicants' pay in the scale of Rs.1350-2200 instead of Rs.1400-2300 as per part 'B' which pertains to Foreman's pay scale in accordance with the recommendations of IVth Pay Commission. By notification dated 17.9.90, respondents refixed the applicants' pay in the scale of Rs.1400-2300 in accordance with the recommendations of the IVth Pay Commission. However, by the impugned order dated 12.2.91 the said order was withdrawn with retrospective effect and refixed the pay in the grade of Rs.1350-2200. The applicants', therefore, filed OA-808/97 and the same was disposed of in 1998 by quashing the above orders. The respondents are, however, directed to pass a speaking order after giving a show cause notice to the applicants. Thereafter a show cause notice was given and after hearing the applicants the impugned order dated 3.6.99 was passed.

2. Learned counsel for applicant submits that the applicants are entitled for the pay scales as recommended by the IVth Pay Commission in para 'B' of the notification dated 13.9.86 as the applicants are working in workshop as Forreman in the Irrigation and Flood Control department, discharging the functions of "Technical Supervisor" and drawing the pre-revised pay in the scale of Rs.380-640. It is also contended that the Foreman in PWD and other departments are also paid the higher scales but the applicants are denied the above scales. Learned counsel for the respondents contends that as there is no specific recommendations made by the IVth Pay Commission in the case of Foreman of Irrigation and Flood Control Department, they were only entitled for the replacement scales as indicated in para 'A' of the

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notification. It is further contended that the Foreman in the PWD being "Technical Supervisor" they were also drawing the pay scale in Col.3 of para 'B' they were paid the scales of Rs.1400-2300 as provided in para 11.27 in Chapter 11 of the IVth Pay Commissions's recommendation.

3. We have given careful consideration to the contentions raised by the counsel on the other side.

4. The short question arises in this case is whether the Foreman working in Flood Control Department are entitled for the pay scale of Rs.1400-2300 as shown in part 'B' of the notification.

5. The question that was considered by the IVth Pay Commission in para 11.27 was whether the supervisory level skilled artisans and other lowest supervisory level should be given the upgraded pay scale of Rs.1400-2300. Considering the objections and other material that was placed before the IVth Pay Commission, it decided that in all departments, skilled artisans in the lowest supervisory level should be placed at the scale of Rs.1400-2300. In part 'B' of the first schedule of the notification, under the heading 'workshop staff' technical supervisors are shown as the eligible category for the upgraded scale. All technical supervisors regardless of the posts and the departments, if they carry the pay scale of Rs.380-640 (pre-revised), they are entitled for the revised scale of Rs.1400-2300. These recommendations have been accepted by the Government. The applicants being the Foreman in the workshop of the Irrigation Flood Control Department should be treated as technical Supervisors and are also entitled for upgraded scale of Rs.1400-2300. It is true that

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there was no specific recommendation by the IVth Pay Commission for the category of Foreman in Irrigation and Flood Control Department but when such recommendation was made that Supervisors of all the departments are entitled for higher revised scale, the applicants cannot be excluded only on the ground of their working in Irrigation Flood Control Department. It is brought to our notice that Foreman in the PWD department were given such revised pay scales. It is also seen from the recommendation of the IVth Pay Commission that "others who can be clearly identified as Supervisors may be given the pay scale of Rs.1400-2300." It is argued by the learned counsel for the respondents that Foreman of the Irrigation and Flood Control Department are not technical Supervisors. If that is so, then there is no reason for giving the revised pay scale to Foreman in the other departments (PWD etc.). Hence, the recommendation pertains to all the departments, wherever they work. In this view of the matter we are of the view that the impugned order is illegal and is accordingly quashed.

5. The respondents are directed to allow the applicants the pay in the scale of Rs.1400-2300 w.e.f. 1.1.86 with all consequential benefits and if any amount is recovered from them that should be refunded to them. This exercise shall be done within 3 months from the date of receipt of a copy of this order. OA is, accordingly, allowed. No costs.

GOVINDAN S. TAMPI
Member (A)
/sd/

Rajagopal Reddy
(V.RAJAGOPALA REDDY)
Vice Chairman (J)