

Central Administrative Tribunal

Principal Bench

O. A. NO. 768/96

Hon'ble Mr. Justice V. Rajagopala Reddy, Vice-Chairman (J)  
Hon'ble Mrs. Shanta Shastri, Member (A)

New Delhi, this the 8th day of March, 2000

MEMO OF PARTIES

Sl.No.	Name	present designation	Date of joining as T.O.	Address
1.	2.	3.	4.	5.
1.	Kamal Sethi	Technical Officer	30.6.89	Central Elec. Authority 905(N) Sewa Bhawan R.K. Puram, New Delhi
2.	Rajesh Kumar Kohli	-do-	1.9.88	703 (N) -do-
3.	Rajeev Varshney	-do-	16.8.88	308 (W) -do-
4.	V. Sitaramraju	-do-	30.6.89	607 (W) -do-
5.	Ashish Goel	-do-	9.9.87	913 (S) -do-
6.	Manoj Kumar Dewan	-do-	14.6.85	308 (N) -do-
7.	Rajesh Kumar	-do- A.D.	8.8.89	314 (N) -do-
8.	S. Surya Narayan	A.D. II	12.3.84	412 -do-
9.	Ms. Mary Francis	A.D. II	23.2.85	913 (S) -do-
10.	Absar Ahmed	A.D-II	30.4.85	905 -do-
11.	Ram Charan	A.D-II	6.9.84	609 (N) -do-
12.	K.K. Meema	A.D-II	13.3.84	607 -do-
13.	Amrik Singh	A.D. II	4.8.89	607 -do-
14.	Kamal Kishor Chauhan	A.D. II	7.8.89	607 -do-
15.	K.S. Babu	A.D. II	23.8.88	911 (S) -do-
16.	Ms. Girija Subramoni	A.D. II	3.2.84	412 -do-
17.	P.E. Mamla	T.O.	1.5.85	205 -do-
18.	Ms. Ranju Bhalla	A.D. II	13.7.85	205 -do-
19.	A.K. Sharma	Tech. Officer	5.7.85	616 -do-
20.	Mahendra Kumar	Tech. Officer	4.2.91	605, -do-
21.	Sharwan Kumar	A.D. II	20.2.85	512A -do-
22.	S.K. Rajendra	Tech. Officer	21.6.85	614 -do-

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1.	2.	3.	4.	5.
23.	Sudhir Jain	Tech. Officer	9.12.88	Wing I, West Block-II R.K. Puram, New Delhi
24.	Ajay Arya	Tech. Officer	17.8.88	Wing 5 -do-
25.	A.V. Shukla	Tech. Officer	17.5.91	Wing 1 -do-
26.	Sukanta Gupta	Tech. Officer	20.5.85	-do-
27.	Navneeta Varma	Tech. Officer	9.11.90	-do- 705, Sewa Bhawan
28.	Neelam Bali	-do-	22.3.88	R.K. Puram, New Delhi
29.	Ugresen Prasad	-do-	9.12.87	-do-
30.	Rakesh Shrotriya	-do-	26.11.96	-do-
31.	Kamal Khemchandani	-do-	6.7.87	-do-
32.	B.R. Alwani	-do-	14.3.85	-do-
33.	C.P. Jain	A.D. II	12.3.80	-do-
34.	S. Chandrasekhara Rao	A.D. II	15.3.84	Admn. I -do-
35.	S.P. Abraham	A.D. II	20.2.85	614 -do-
36.	Anita Verma	T.O.	24.10.90	714 -do-
37.	V.P. Gangarevanna	A.D. II	25.6.87	610 -do-
38.	B.S. Verma	A.D. II	4.3.83	306 -do-
39.	D.R. Singhvi	T.O.	30.4.91	18 A -do-
40.	Subhash Chand	Trax S r. Engg.	12.6.85	WAPCOS, 213 Ansal Chamber-II
41.	Subodh Kumar	-do-	11.7.83	Bhikaji Cama Place New Delhi
42.	O.P. Chibber	-do-	6.4.83	-do-
43.	D.V.S.N. Raju	-do-	12.3.84	-do-
44.	Devendra Saluja	F.O.	9.10.87	512A, C.E.A. R.K. Puram New Delhi
45.	Hemant Verma	A.E.E.	22.8.88	DESU Rajghat New Delhi
46.	S. Jayaraman	T.O.	21.3.89	711, CEA, Sewa Bhawan New Delhi
47.	N.K. Gopal Krishnan	A.D. II	14.8.89	307 -do-

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## Memo of parties...Contd.

1.	2.	3.	4.	5.
48.	M.P.S. Rana	Dy. Manager	19.6.85	Punjab Alkalies Ltd. Mohali
49.	Suresh Babu N	T.O.	22.3.81	RPSO Bangalore
50.	Swapan Roy	T.O.	7.11.90	RPSO Calcutta
51.	R.K. Jaiswal	T.O.	28.2.92	607 Sewa Bhawan CEA New Delhi
52.	Sunit Kumar Gupta	T.O.	26.2.92	-do-
53.	Hariharan P.S.	T.O.	16.4.92	310, -do-
54.	Rajesh Kumar Mittal	T.O.	29.1.91	907, -do-
55.	J.K. Kawrani	T.O.	10.2.92	706, -do-
56.	A.K. Kawrani	T.O.	16.3.92	216, NREB Katwara Sarai New Delhi
57.	Prasun Kumar De	T.O.	16.4.92	C.E.A., EREB, Calcutta
58.	K. Shannughan	T.O.	14.2.92	WREB, CEA, Bombay
59.	Len J.B.	T.O.	26.1.92	PSTI CEA, Bangalore
60.	Ramchandra Babu N.	A.D.II	25.2.85	SREB, CEA, Bangalore

... Applicants

(Applicant No. 34 in person)  
versus

Union of India: Through

1. The Secretary, Government of India  
Ministry of Power, Shastri Bhawan, New Delhi2. The Secretary, Ministry of Finance  
Government of India, North Block, New Delhi.3. The Central Electricity Authority  
through its Chairman, Sewa Bhawan, R.K. Puram  
New Delhi.

.. Respondents

(By Shri S. Mohd. Arif, through Shri M.K. Bhardwaj, Advocate)

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O R D E R (Oral)

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By Reddy, J.-

The applicants are Graduates in Electrical/Mechanical Engineering. They are appointed as Technical Assistants (now designated as Technical Officer), during the period from 1983 to 1992 in the Central Electricity Authority. They were appointed on the basis of a selection on All India Level. It is submitted that Draftsmen Grade I as also Assistants and Stenographers Grade 'C' of Central Secretariat Service are also working in the department. The qualification for the post of Technical Assistants is Graduate in Engineering whereas the qualifications for the posts of Draftsman Grade I is matriculation plus certificate from ITI, for Assistants it is Graduation and for Stenographers it is only 10 + 2. The respective pay scales for Technical Assistants (Technical Officers), Stenographers/Assistants in CSS and Draftsmen are shown in the table as below:

Pay Commission	Pay Scale of Tech. Assistants (Tech. Officers)	Pay Scale of Assistants/Stenographers	Pay Scale of D/Man
IInd	250-425 plus special pay	210-425	205-280
IIIrd	550-750	425-800	425-700
IVth	1600-2660	1400-2600	1400-2300

2. From the above table it is clear that the Technical Officers have been drawing pay scales <sup>higher</sup> than that of Stenographers/Assistants and Draftsmen.

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3. Subsequently, however, by the OM dated 31.7.90 16  
the pay scales of Assistants and Stenographers Grade 'C' were revised from Rs.1400-2600 to Rs.1640-2900 w.e.f. 1.1.86. By another OM dated 19.10.94 the pay scales of the Draftsmen were revised to Rs.1600-2660 from Rs.1400-2300 w.e.f. 1.11.83. The grievance of the applicants is that their pay scales have not been revised and that they remained at Rs.1600-2660 w.e.f. 1.1.86, though they had been drawing higher pay scales than that of the Assistants, Stenographers Grade 'C' and Draftsmen. The applicants, therefore, made representation dated 22.11.90 (Annexure A-4) to the Hon'ble Finance Minister, as also to the Prime Minister of India, Chairman of the Central Electricity Authority and to the Director of Grievance, Department of Administrative Reforms. Not getting any favourable reply from the said dignitaries, applicants filed OA-2231/91 and OA-193/92, seeking the revised pay scale on par with that of the Assistants/Stenographers and Draftsmen. The OA was disposed of directing the respondents to take into consideration the educational qualification required for appointment to the post, the nature of duties and responsibilities attached to the post and the pay scales prevalent for equivalent grades in other departments and to pass appropriate orders as to the revision of their pay scales, by order dated 25.9.95. The respondents thereupon passed the impugned order dated 3.7.96 revising the pay scales of the applicants as per the directions given by the Tribunal in the above OA, from Rs.1600-2660 to Rs.1640-2900 w.e.f. 12.4.96. The grievance of the applicants is that though the pay scales have been revised as prayed for in the above OAs, the respondents fixed the effective date of implementation of the revised pay scales as 12.4.96 instead of 1.1.86. Meanwhile the

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Fifth Pay Commission's recommendations having been implemented by the Government revising the pre-revised pay scale of the applicants to Rs.2000-3500, the replacement scale being Rs.6500-10500 w.e.f. 1.1.96, it is pleaded by the applicants that though the pay scale has been revised by the impugned order which came into effect from 12.4.96, it had virtually no effect on the revision of the pay scale of the applicants. The applicants, therefore, pray for revised pay scales of Rs.1640-2900 to be given effect to from 1.1.86 as in the case of the Assistants/Stenographers Grade 'C' and the Draftsmen and that discrimination meted out to the applicants is wholly unreasonable and arbitrary, though they are technically better qualified than <sup>the</sup> others and had been drawing higher pay scales in the pre-revised pay scales.

4. As the learned counsel for the applicants is absent, applicant No.34 has argued before us and we must say that we have <sup>been</sup> given good assistance in deciding the matter. Shri M.K. Bhardwaj, proxy for Mr. S.M. Arif appears and requests for an adjournment on the ground that Sh. Arif is in some personal difficulty today.

5. Since the matter is of 1996 and the matter is partly heard yesterday, we have decided to dispose of the matter on merits, rejecting the request for adjournment.

6. The short question that is involved in this case is whether the applicants are entitled for the revised pay scale with retrospective effect from 1.1.86 - the date from which the Assistants/Stenographers Grade 'C' are granted the revised pay scales. In the case of the Draftsmen their scale of pay were revised w.e.f. 1.11.83.

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As seen supra, in the narration of the facts, the applicants have been drawing higher scales of pay even after the Fourth Pay Commission's recommendations were accepted by the Government. They were drawing Rs.1600-2660 whereas others were drawing Rs.1400-2300/2600. In pursuance of the order of the Tribunal in OA No. 2231/91 and OA No.193/92, dated 25.9.95, the Government passed the impugned order dated 3.7.96 revising the pay scales of the applicants from Rs.1640-2900 as prayed for by the applicants in the above OA, but the pay scales were given effect to from 12.4.96, instead of from 1.1.86.

7. In the reply it has been clearly admitted that the impugned order was passed in pursuance of the directions given by the Tribunal but it is averred that it is the general policy of the Government that no retrospective effect be given for revising the pay scales. Thus the only reason given for not giving the retrospective effect to the revised pay scale w.e.f. 1.1.86, is the policy of the Government being contrary to the same. It must be noticed that the applicants made a representation as early as 22.11.90 to the concerned authorities for revision of the pay scales at par with the other group of officers. As there was no response the applicants came up before the Tribunal with the above OAs seeking the parity of the pay scales. The direction was that the respondents should consider the representation of the applicants and pass appropriate orders. Thus the representation made by the applicants was now considered by way of the impugned order. When once a representation made on 22.11.90 has been considered and conceding the applicants request the pay scales were revised. Such revision should relate back to

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the date of the representation and not the date of order which may be much later. The date of the order has no relevance to the date of giving effect to the revision. It is true that the pay scales of the Stenographers Grade 'C' and the Assistants and Draftsmen etc. were revised in 1990 and 1994 and they were given retrospective effect from 1.1.86 and 1.11.83. But, the applicants are not entitled to be given the pay scale w.e.f. 1.1.86 as the applicants made representation only on 22.11.90. So the starting point for the grievance of the applicants should be taken as 22.11.90. We find that the reason given in the counter that it is the policy of the Government not to give retrospective effect to the pay scales is wholly unacceptable because even in the case of other group of officers the pay scales were given retrospective effect from 1.1.86, though the orders were passed in 1990 and 1994. Even in the case of the applicants though the orders have been passed on 3.7.1996 the retrospective effect, however, was given w.e.f. 12.4.96.

8. The recommendations of the Fifth Pay Commission will not come in the way of granting retrospective revised pay scale to the applicants because the Fifth Pay Commission was asked to determine the revised pay scales only w.e.f. 1.1.96 and not prior to that date. The Tribunal has also in its order dated 25.9.95 directed that the respondents should consider and pass appropriate orders notwithstanding the Fifth Pay Commission's recommendations. In fact the impugned orders of the Government giving benefit of the pay scale w.e.f. 12.4.96 has no effect at all on the applicants as the Government

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accepted the Fifth Pay Commission's recommendations w.e.f. 1.1.96 and they were given the revised pay scale of Rs.6500-10500 (pre revised pay scale of Rs.2000-3500).

9. It should not be understood that we had, notwithstanding the ratio in the case of Union of India v. P.V. Hariharan, 1997 SCC (L&S) p.838, ventured to evaluate the duties and responsibilities of the applicants comparing with the duties of other group of officers. As the Government had already taken a decision to revise the pay scale of the applicants at par with the others. We find that the Government had adopted a "hostile discrimination" in not granting the <sup>same</sup> retrospectively to the applicants granting the same to others. We are, therefore, of the view that the applicants should also be paid the pay scale taking into consideration the date of their representation.

10. In the circumstances we dispose of the OA, directing the respondents to give the revised pay scale of Rs.1640-2900 w.e.f. 1.5.91 i.e., roughly after six months from the date of representation, and not w.e.f. 12.4.96. This exercise shall be done within a period of six months from the date of receipt of the copy of this order.

11. The O.A. is partly allowed. No costs.

*Shanta*  
(Smt. Shanta Shastry)  
Member (Admnv)

*V. Rajagopala Reddy*  
(V. Rajagopala Reddy)  
Vice-Chairman (J)

'San.'