

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.**

O.A./KXXXX No. 1884 of 1996 Decided on: 21/7/92

Shri Lalta Prasad Pal & Others....Applicant(s)

(By Shri T.C. Aggarwal Advocate)

Versus

U.O.I. & Others Respondent(s)

(By Shri M.M. Sudan _____ Advocate)

CORAM:

THE HON'BLE SHRI K. MUTHUKUMAR, MEMBER (A)

THE HON'BLE SHRUDR. A. VEDAVALLI, MEMBER (J)

1. Whether to be referred to the Reporter
or not? *yes*

2. Whether to be circulated to the other NO
Benches of the Tribunal?

(K. MUTHUKUMAR)
MEMBER (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 1884 of 1996

New Delhi this the 21st day of July, 1997

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

1. Shri Lalita Prasad Pal
S/o Shri Kanhai Ram Pal
R/o 32-N, Sector-IV, DIZ Area,
Gole Market,
New Delhi-110 001.
2. Shri Puran Bhan
S/o Shri Guria Ram,
R/o House No.146,
Block D, Gali No.30,
Molar Band Extension, Badarpur,
New Delhi-44.
3. Shri Gopi Ram
S/o Shri Doji Ram,
Village/P.O. Hasanpur,
(District Gaziabad), U.P.
4. Shri Harish Chandra Singh
S/o Shri P.S. Bisht,
R/o A-2861, Budha Marg,
Mandawali, Fazalpur,
Delhi-110 092.
5. Shri Sukhbir Singh
S/o Shri Jage Ram
R/o House No.41,
Village Tajpur Kalan,
Delhi-36.
6. Sushil Kumar-III
S/o Shri G.L. Kataria,
R/o House No. 791,
Street No.7,
Govindpuri, Kalkaji,
7. Shri Ambi Ram
S/o Shri Hari Ram,
R/o E-398, Dakshinpuri,
New Delhi. /Applicants

By Advocate Shri T.C. Aggarwal

: Versus

Union of India through

1. Secretary to the Government of India,
Ministry of Finance
(Department of Expenditure),
North Block,
New Delhi-110 001.

2. Secretary to the Government of India,
Ministry of Home Affairs,
North Block,
New Delhi-110 001.

3. Secretary,
Union Public Service Commission,
Dholpur House,
New Delhi-11. Respondents

By Advocate Shri M.M. Sudan

ORDER

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Applicants here have joined in a single application praying that the scheme relating to the reorganisation of the Electronic Data Processing Posts as adopted by respondent No.3 be made applicable w.e.f. 1.1.1986 and they be granted the Data Entry Operator Grade-A w.e.f. the date they were appointed as Mechanical Operators and on completion of 6 years of service as Mechanical Operator/Data Entry Operator Grade 'A', they should be granted promotion to Data Entry Grade 'B' and should be given Date Entry Operator Grade 'C' on completion of 9 years of service.

2. The facts briefly stated are that the applicants joined under the respondents as Mechanical Operators. On the basis of the recommendation of the IVth Pay Commission, respondent No.1 appointed a Committee to rationalise the pay structure of the Electronic Data Processing staff, reorganise the Electronic Data Processing posts and prescribe a uniform pay structure and designation. On the basis of the recommendations of the Committee appointed for the purpose, respondent No.1, by order dated 11.9.1989, introduced new pay structure for various posts in the Ministries and Departments of the

Government. The revised pay structure was ordered to become operative from the aforesaid date. The respective Ministries and departments were directed to initiate action for the implementation of the revised pay structure. They were also advised that they would carry out a review of the existing EDP posts in accordance with the Recruitment Rules and they were also advised to adopt model Recruitment Rules being revised by the Department of Personnel and Training in this behalf. Respondent No.3 under whom the present applicants are working accordingly issued necessary notification for this purpose giving effect to the revised pay structure and also the criteria for conversion into the restructured category of posts by their order dated 17.7.1991 (Annexure A-2). The main grievance of the applicants is that the respondent No.3 while issuing orders for restructuring the cadre should have given effect to the revised grades with effect from 1.1.1986 itself whereas they have arbitrarily implemented the revised pay structure and the conversion criteria w.e.f. 11.7.1989, the date on which the respondent No.1 had issued the orders accepting the recommendations of the Committee. The applicants maintain that the restructuring was a sequel to the recommendation of the Pay Commission and, therefore, should have been implemented, namely, w.e.f. 1.1.1986. Apart from the question of date of introduction of revised grades, the other contention of the applicants is that the benefit of ad hoc service as Data Entry Operator as was given to two employees as Mechanical Operator, namely, S/Shri Jai Bhagwan and Virender Singh should also be extended to the applicants inasmuch as they were also similarly circumstanced and there can be no discrimination in their case. They have also raised the question of

fairness in administrative action. The applicants rely on several decisions of the Courts and Tribunals in support of their contention and we shall revert to them later.

3. The respondents have strongly contested the claim of the applicants. In the reply, they have stated that, *prima facie*, the application is barred by limitation. According to them, the orders giving effect to the revised pay structure was issued by the respondents by their order dated 17.7.1991 whereas the applicants had filed this application only in September, 1996 after a lapse of 5 years. They also pointed out that the revised grades were introduced by the respondents in pursuance of the directions of the Ministry of Finance in their order dated 11.7.1989 regarding the rationalisation of Electronic Data Entry processing posts and it was provided in the aforesaid letter that all Ministries and Departments having Electronic Data processing posts under their administrative control could review the designation, pay scales and recruitment qualification of their posts and revise the same in consultation with their Financial Advisers and the revised pay scales would become operative from the date of issue of Notification by the concerned Ministry/Department. Such an exercise was undertaken by the respondent No.3 and the revised grades and the criteria for conversion of posts for placement in the restructured grades notified w.e.f. 11.9.1989, prescribed for Mechanical Operators for placement in the restructured grade and were based on the length of service prescribed for appointment to various grades and, therefore, the conversion criteria could not be held to be arbitrary. On the contention of the applicants that their ad hoc service was to be counted from the date

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of initial appointment on the analogy of the decision in favour of S/Shri Shiv Bhagwan and Virender Singh, the respondents point out that the applicants cannot be treated on par with the aforesaid employees, as they were selected on the basis of regular selection. In the case of the applicants, however, they were appointed on purely ad hoc basis and it was indicated clearly in the appointment order that this appointment as Mechanical Operator was purely on ad hoc basis and would not confer on them any title for regular appointment or seniority in the grade. Later on they claimed regularisation when vacancies Circular for 17 posts was notified and they filed a case in the Tribunal. The Tribunal only gave a direction that the applicants could take trade test along with the nominees of Employment Exchange but they should be given certain amount of weightage by way of marks for 3 years of ad hoc service already rendered. Therefore, the applicants in that case on their own volition, applied for said selection, took practical test in pursuance of the Tribunal's direction in 1989 for regular appointment for the post along with other candidates from the Employment Exchange and on the basis of the practical test, they were appointed on regular basis w.e.f. 24.10.1989 and, therefore, there was no irregularity or discrimination against the applicants.

4. In the rejoinder, the applicants harp on the point that in the case of S/Shri Jai Bhagwan and Others, the total length of service including the ad hoc service had been taken for the grant of Grade-B and, had the respondents circulated the vacancy on regular basis, the

applicants would not have been appointed on ad hoc basis and the applicants should not, therefore, suffer on account of the fault of the respondents.

5. We have carefully perused the pleadings and have heard the learned counsel for the parties.

6. On the contention of the applicants that the revised grades under the restructured scheme of Electronic Data processing posts, the applicants rely on the decision in Y. Jaganmohan Reddy and Others Vs. Secretary, Ministry of Home Affairs, Government of India and Others, (1993) 23 ATC 42. We have seen this judgment. In this case a parity was claimed by the applicants with their counter-parts in the Railway Administration. It was felt that the applicants in that case would not be treated differently with the counter-parts in the Railways. We are unable to see how this case could be relevant. This was a judgment in personam for the applicants in question although the issue raised was for grant of parity in scales. Besides, in the present case, the facts and circumstances are that in pursuance of the recommendations of the High Powered Committee, certain restructuring was done and revised grades were introduced with effect from 11.9.1989. This were a sequel to the reorganisation of the Electronic Data processing posts and the uniform scales were introduced and was given effect to w.e.f. 11.9.1989. Had this been a simple case of parity with other posts in the Railway Administration or elsewhere, there would not have been any need for placing the matter before the Expert Committee in pursuance to the recommendations of the IVth Pay Commission. In the light of this, we find that the

decision in the aforesaid case is not of much assistance to us. The applicants have also contented that the judgments rendered by the Tribunal in service matters will have to be considered as judgment in rem and they have cited reference to another judgment in John Lucas and another vs. Additional Chief Mechanical Engineer, S.C. Railway and Others vs. Chief Mechanical Engineer, 1986 to 1989 Full Bench Judgments Vol.1. page 136. In this case, the context of Section 22 of the Administrative Tribunal's Act, 1985, was examined and it was held that the term "a person feeling himself aggrieved" had a wider connotation and the Tribunal had to regulate its own procedure including the fixing of places and times of its enquiry and deciding to sit whether in public or in private and it will also include a person who is not a party to the proceedings but is effected adversely by the Tribunal. The Tribunal then went on to consider that in service matters the interpretation of rules or upholding the claim of seniority, promotion etc. in one case may infringe the right of another and in that sense, these judgments could be considered in rem. We do not see how this observation would be of any relevance in the case in hand. The case of the applicant is regarding revision of grades from a retrospective date, i.e., from 1.1.1986 instead of 11.9.1989. It should be pointed out that the revised grades were introduced uniformly in respect of all the applicants under the respondents and, therefore, there can be no question of any discrimination in this behalf. The applicants raise the contention of the discrimination only with reference to the case of S/Shri Jai Bhagwan and Virender Singh. We have seen that in the case of these two officials, the respondents have regularised their ad hoc

appointment as they were regularly considered against regular selection notified for the vacancies in question whereas in the case of the applicants, they were appointed merely on ad hoc basis which was continued from time to time and in certain cases there are even breaks in ad hoc service and only against the subsequent selection and practical test in 1989 for regular selection of 17 posts, the applicants also were considered and they were appointed on a regular basis w.e.f. 24.10.1989. The contention of the applicants is that the respondents should have held a regular selection on the basis that they were initially taken on ad hoc basis. We are unable to accept this contention. The applicants were clearly told that the appointments were purely ad hoc and the consideration was also restricted to the candidates under the respondent No.3. In other words, this was not a regular selection and, therefore, the appointments were treated as ad hoc. Since we hold that the case of the applicants who were initially appointed on ad hoc basis against the local selection was quite distinct from the case of S/Shri Jai Bhagwan and Others, whose appointments were regularised by the competent authority, we do not find it necessary to go into the various decisions cited by the learned counsel for the applicants in support of this contention. We, however, refer to the case of Minaketan Mishra and Others Vs. Union of India & Others, (1993) 24 ATC 338 cited by the learned counsel for the applicant. In this case parity was claimed including the date of effect of higher scale between Census Operators of the Ministry of Finance and Data Processing staff under the Railway Administration. The facts and circumstances of this case are quite different. In the case of the applicants under consideration, the revision of

scales of pay and the restructuring and reorganisation was a sequel to the recommendations of the specially constituted Committee and it was decided uniformly to introduce the scales with effect from 11.9.1989 in respect of all the staff under the respondent No.3. and hence, the parity allowed in the case of the applicants in the above case, is not of much relevance here. The learned counsel for the applicant also referred to S.A.M. Bilgrami and Others Vs. U.O.I., (1991) 17 ATC 409 to stress the question of parity on the principle of equal pay for equal work. The reorganisation of the existing Electronic Data processing posts and the introduction of the uniform pay scales and designation were considered and in pursuance of the suggestion of the High Powered Committee and as pointed out earlier, the Ministries having Data Processing/Electronic Data processing posts, were required to review the designation, pay scales and recruitment qualification of their posts. It was only after that review, the respondent No.3 had introduced revised grades at various levels with corresponding conversion criteria and the grades were given effect to w.e.f. 11.9.1989. In these circumstances, it cannot be said that there had been any violation of principle of equal pay for equal work. The designation of various EDP posts, qualifications and the conversion criteria and the revised grades as approved, were introduced after an exhaustive review and we do not think there had been any irregularity in the introduction of these grades from the date notified.

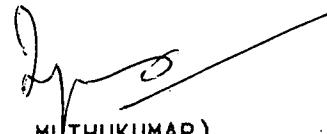


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7. In the conspectus of the above discussion, we do not find any merit in the application. The application is dismissed leaving the parties to bear their own costs.

A. Vedavalli

(Dr. A. VEDAVALLI)
MEMBER (J).


(K. MUTHUKUMAR)

MEMBER (A)

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