

(7)

Central Administrative Tribunal
Principal Bench: New Delhi

OA NO.167/94

New Delhi this the 21st Day of October, 1994.

Sh. N.V. Krishnan, Vice-Chairman (A)

1. Sunder Dass Thukral
2. Jagdish Chander-II
3. R.D. Kashyap
4. P.L. Dua
5. Guru Dutt Dhingra
6. Sibu Ram
7. Om Prakash Kansal
8. Vashnu Chand Sharma
9. Santosh Kumar
10. L.K. Sharma
11. Kamal Pd. Upadhyay
12. Surinder Pal Midha
13. Dewan Chand Dawara
14. Karam Chand
15. Kulbir Singh
16. Khairati Lal Miglani
17. Ram Kanwar Sharma
18. Mitter Sen Verma
19. Nirmal Singh
20. Gurdial Gakhar
21. Satyamurty Sharma
22. Darshan Lal
23. Shanu Lal Durga
24. K.K. Khurana
25. Ram Dass Nair
26. Satpal Sharma

...Applicants

(By Advocate Sh. Sant Lal)

Versus

1. Union of India, through
the Secretary, Ministry
of Communications,
Department of Telecommunication,
Sanchar Bhawan, New Delhi.
2. The Chief General Manager (NTR)
Department of Telecommunication,
Kidwai Bhawan, New Delhi.
3. The Chief Superintendent,
Central Telegraph Office,
Eastern Court, New Delhi.

...Respondents

(By Advocate Sh. G.S. Lubana proxy for Sh. K.C.
Sharma, Counsel).

ORDER(ORAL)
Hon'ble Mr. N.V. Krishnan:-

This application has been filed by the
26 applicants, who have a common cause. They
have filed MA-192/94 for filing a single appli-
cation. That M.A. is allowed.

(L)

2. The applicants are Telegraph Masters and their grievance relates to the fixation of their pay as Telegraph Masters on promotion from the grade of Assistant Telegraph Masters. It is stated that the applicants started their career as Telegraphists in the Delhi Circle of the respondents department on various dates. They were subsequently promoted as Assistant Telegraphist Masters on various dates during 1975 to 1981 in the pay scale of Rs.380-560. Thereafter, they were promoted on various dates to the posts of Telegraph Masters in the pay scale of Rs.425-640. The grievance is that, on such promotion, their pay in the pay scale of Rs.425-640 has been fixed at the same stage at which they were drawing pay in the lower pay scale of Rs.380-560 as Assistant Telegraph Masters.

3. It is stated that in this regard the persons similarly situated had approached various Benches of this Tribunal and the Tribunal declared that consequent upon the promotion to the post of Telegraph Masters, the applicants before them were entitled to have their pay fixed under FR-22-C. The applicants have enclosed copies of the judgements of the Calcutta Bench of the Tribunal in OA-439/90 decided on 21.4.92 (Annexure A-3), judgement of the Ernakulam Bench of the Tribunal in OA-1334/91 decided on 1.6.93 (Annexure A-4), to which I was a party, and the decision of the Ernakulam Bench of the Tribunal in OA-66/93 decided on 15.1.93 (Annexure A-5).

(6)

4. Based on these judgements, the applicants state that identical representations were sent to the respondents during 1992-93 for extending the benefits of those judgements and to fix their pay by applying FR-22-C. A copy of the representations filed by the second applicant is enclosed at Annexure A-6. The second applicant was informed by the impugned Annexure A-1 letter dated 28.3.93 that, in accordance with Department of Telecommunications letter dated 22.11.92, referred to therein the benefit of the judgement of the Calcutta Bench was to be given only to the applicants therein. It is stated that similar replies have been received by the other applicants. In the circumstances, the applicants have prayed for the following directions:-

"1) To declare the impugned orders which restrict the benefit of pay fixation of ATMs on promotion to the grade of T.Ms under FR-22 C to the applicants only in the case of Sunlendu Chaudhry & Ors (OA-439/90) as arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution;

2) To direct the respondents to extend the benefits of the order dated 28.9.92 and the judgments of the Tribunal (Annexure A-3 to A-5) to the applicants who are similarly placed and to fix their pay from the grade of ATMs to the grade of LSG T.Ms by applying the principle of FR-22 C (old)/FR-22 I (a)(i) (new) in accordance with the principle of law declared by the Hon'ble Tribunal in the said cases;"

5. The respondents have filed a reply in which a preliminary objection that the O.A. is hopelessly time barred has been taken. It is stated that the judgements rendered by the Tribunal were

in respect of the applicants therein and that, therefore, the benefit of those judgements cannot be given to the present applicants.

6. I have carefully gone through this reply. The respondents have relied upon the Annexure 'C' circular of the D.G. P&T dated 29.11.78 for holding the view that the appointment of Assistant Telegraph Masters as L.S.G. Telegraph Masters will be considered as not involving higher duties and responsibilities. Their pay on appointment as L.S.G. Telegraph Masters shall be fixed at the same stage at which their pay is drawn in the Assistant Telegraph Masters cadre, if there is such a stage in the scale of pay of LSG TMs or at the next higher stage, if there is no such stage.

7. The applicants have also filed a rejoinder in which a further order of the Principal Bench of this Tribunal in OA-1120/93 has been annexed in which judgement has been rendered on 17.11.94.

8. The learned counsel for the applicants submits that in view of all these decisions, the applicants are also entitled to the same benefits as the applicants in the OAs decided in the various judgements, to which reference has been made in the OA. In particular, he draws our attention to the decision of the Ernakulam Bench in OA-1334/91 in which not only ~~was~~ ^{were} the applicants therein given the benefits of FR-22 C for fixation of their pay on promotion from the post of A.T.M. to that of Telegraph Master but, the letter No.213/47/76-STM/PAT dated 29.11.78 of the Director General of P & T (i.e. Annexure C in the present OA)

was declared void to the extent that it denied the applicability of FR-22C in regard to fixation of pay on promotion from the post of A.T.M. to L.S.G. T.M. He, therefore, contended that the Department ought to have extended the benefit of that judgement to all persons similarly situated.

9. My attention has been drawn by the learned counsel for the respondents to a judgement of the Supreme Court dated 20.12.91 in Civil Appeal No.2033 of 191 - R.K. Singh & Others vs. Union of India & Ors. The learned counsel stated that as Sh. K.C. Sharma, learned counsel for the respondents is not available today, it is not possible for him to state whether this judgement which has been given to him by the departmental representative has any bearing on the issue under consideration. I have seen that judgement. I am of the view that that judgement does not deal with the issue under consideration.

10. I have carefully gone through the reply filed by the respondents.

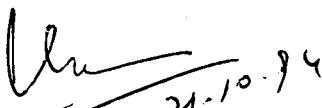
11. The preliminary objection regarding limitation has no merit. Having given a reply to one of the applicants on 23.3.93 (Annexure A-I) the cause of action arises from that date.

12. The respondents have not indicated as to why the various judgements of the Tribunal delivered earlier should not be made applicable in the present case or as to why a different view should be taken in this case from those judgements.

U

13. In the circumstances, I am satisfied that this O.A. has also to be disposed of on the same lines, as has been done in all the earlier decisions. As the relevant instructions in the Annexure 'C' memorandum dated 29.11.78 issued by the D.G. P&T has been declared void, the Department has no alternative except to grant this benefit to all such persons. In the circumstances, I dispose of this OA with a direction to the respondents to fix the pay of the applicants on their promotion as T.M. under FR-22C, as it then existend, and give them all consequential benefits within a period of three months from the date of receipt of this order.

14. The O.A. is disposed of accordingly. No costs.


21.10.94
(N.V. Krishnan)
Vice-Chairman (A)

'Sanju'