

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. No. 1979/1988

Date of decision 25.1.1994...

Hon'ble Mr. N.V.Krishnan, Vice Chairman(A)

Hon'ble Mr. B.S. Hegde, Member(Judicial)

Sh. Lakshmi Narayan Singh,
Technician, Central Telegraph Office,
New Delhi

.... Applicant

(By Advocate Sh. R.Venkataramani with
Sh.Lajpat Rai)

Versus

1.Union of India through
Secretary, Ministry of Communication,
Sanchar Bhawan, New Delhi

2.The Director General(T),
Telecommunication Board,
Sanchar Bhawan, New Delhi

... Respondents

(None for the respondents)

O R D E R

[Hon'ble Mr. B.S. Hegde, Member(Judicial)]

In this application the applicants are agitating
the issue of appropriate fixation of their scales of pay
at par with the identical posts bearing similar duties
and responsibilities and similar qualifications in other
departments of Union of India. This application is filed

on behalf of about 70 Technicians serving in the Telecommunications Department, Ministry of Communications, praying for appropriate re-fixation of their scale of pay, which is now Rs. 975-1600, at Rs. 1400-2300 at par with the identical posts bearing similar responsibilities and qualifications in other departments of the Union of India w.s.f. 1.1.1986; in the alternative seeking direction to the respondents to fix the scale of pay of Technicians at Rs. 1320-2040 w.e.f. 1.1.1986 as is applicable to similar categories of posts in the other departments of the Government of India.

2. The applicants herein, all of whom are Diploma holders, claim a constitutional right under Articles 14 and 39(d) for enforcement of the principle of 'Equal pay for equal work'.

3. The main ground of attack of the applicants is that the scales of pay have been appropriately revised either to Rs. 1400-2300 or Rs. 1320-2040 in the case of Technicians called by different designations and serving in different departments either under the Respondents or any other department with the comparable duties and responsibilities. Prior to 1983, the posts were designated as 'Mechanic' in the scale of Rs. 260-480. The qualification for appointment to the post of Mechanic was matriculation.

(Annexure II)

By notification dated 28.8.1983, the Government of India Ministry of Communication published the Posts and Telegraph Department Technician (Telephone, Telegraph, Carrier and Wireless) Recruitment Rules, 1983. Rule 4 provides that the method of recruitment, age limit, qualification and other matters relating to the said post shall be as specified in column 5 to 13 of the Schedule to the Rules. Under column 7, the qualification for direct recruit is laid down as under :-

" Diploma in Electrical or Mechanical or Radio or Telecommunication or Electronic Engineering from any Technical Institute recognised by the Central Government or such Diploma awarded by a State Board of Technical Education, entained after passing matriculation or equivalent examination

OR

Matriculation with a minimum of 5 years experience in the Central Government in the Telephone, Telegraph, Carrier and Wireless Branch of Engineering".

Thus, the 1983 Rules brought about a change in the qualification for appointment to the post of Technician. However, the scale of pay continued to be Rs. 260-480. From 1.1.1986 the payscale fixed is only Rs. 975-1600. In the

Telecommunications department, there exists two other posts viz. Inspector in the scale of Rs. 380-560 and Junior Engineer in the scale of Rs. 425-700. There also exists an intermediate grade called Technical Supervisor grade in the scale of Rs. 425-540 which is a selection grade for Technicians. Pursuant to the recommendations of the Fourth Pay Commission, the scales of pay of the above mentioned posts have been revised to Rs. 1320-2040, Rs. 1640-2900 and Rs. 1400-2300 respectively.

4. The contention of the applicants is that in the Telecommunications Research Centre, which ^{also} comes under the Telecommunications wing of the Ministry of Communications, there exists posts of Junior and Senior Laboratory Technicians, whose revised scales of pay are Rs. 1320-2040 and Rs. 1400-2300. The qualifications for appointment to the post of Laboratory Technicians in the Telecommunications Research Centre is only matriculation which is much lesser than the qualification fixed for appointment to the post of Technicians in the Telecommunications Wing. The nature of work and the level of responsibilities are ^{alleged to be} more or less identical. Similarly, in the Doordarshan Kendra also, there are posts of Senior Technician/Technician. Their scales of pay have also been revised

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pursuant to Fourth Pay Commission's recommendations.

5. The contention of the applicants is that instead of taking into consideration the existence of similar posts with same qualification and involving discharge of comparable duties and same level of responsibilities in the other departments of the Union of India and their revised scales of pay, namely, Rs. 1320-2040 and Rs. 1400-2300 as the case may be, and to re-fix the scale of pay of the applicant accordingly, the respondents are arbitrarily refusing to re-fix the applicant's scale of pay at par with the scales of pay of Technicians mentioned above. The applicants have been agitating for the past 7 years for revision of their pay scales as a result of which respondents have appointed various committees to look into the service conditions of the applicants. They further contend that the Fourth Pay Commission did not specifically go into the revision of the pay scales of Telecommunication technician and technical supervisor since the respondents had informed the Pay Commission, that the matter of restructuring of the cadre, is under consideration. Therefore, the Pay Commission had left the matter to be decided by the respondents. They have further pointed out that pursuant to the Fourth Pay Commission's report, Junior Engineers of the Telecommunications Department who are also diploma holders

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were given a scale of Rs. 1400-2300. Since the said scale was not accepted by them, after some agitation their scales had been revised to Rs. 1640-2900.

6. Likewise, the Technicians also agitated for their rights. In the year 1986 and 1987 there were number of agitations and on 5.8.1986, 10.11.1986 and March, 1988 settlements were arrived at between the Union and the Department assuring restructuring of the cadre at the earliest as well as grant of better scales of pay. It is stated that though the respondents appointed various committees, they have not implemented the recommendations of the committees. The minute of the discussions between the authorities and the representatives of the Union held on 6.11.1986 (Annexure V collectively) when a settlement was reached between the parties, in the presence of the Chief Labour Commissioner (Central) reads as follows :-

- (i) It is agreed that the restructuring of the cadre of Technicians will be done taking into account the demands of the Union referred to above;
- (ii) It is agreed that the Bharatiya Telecommunications Technicians Union will be consulted as frequently as possible at the time of formulation of the scheme before making inter-departmental reference;

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(iii) It is agreed that the qualifications and other job contents of different cadres have to be determined by the Telecommunications Deptt., and

(iv) It is agreed that the Scheme will be implemented immediately after finalisation with the other concerned Departments.

The applicants called off their strike awaiting the implementation of the decision taken pursuant to terms of settlement. Further meetings were held on 7.3.1988 and 5.8.1988 (Ann-V). On the latter date, the following settlement was reached:-

- 1." The proposal for the revision of the pay scales of the Technicians has already been taken up with the appropriate authorities and it will be pursued vigorously by the Department of Telecommunications, for grant of better pay scales than recommended by the Pay Commission.
2. The final decision of the Government regarding the recommendations of the Pay Commission may be awaited.
3. Circle authorities will be requested by the Dot to consider the cases of the absentees with sympathy and ensure harmonious relations.

4. The association/Union agreed to withdraw the Hunger Strike and the Strike Notice served on the Management with immediate effect."

As the department did not make any earnest effort to implement these decisions. The applicants, filed the O.A. seeking the following reliefs:-

- (a) Pass an order directing the respondents to revise the scale of pay of Technicians to Rs 1400-2300, w.e.f. 1.1.1986, having regard to the qualifications, nature of duties and level of responsibilities attached to the said posts;
- (b) Pass an order, in the alternative directing the respondents to fix the scale of pay of Technicians at Rs 1320-2040, w.e.f. 1.1.1986 as applicable to similar categories of posts in the other departments of the Government of India ;
- (c) pass an order directing the respondents to pay all arrears in the appropriately revised scale of pay w.w.f. 1.1.1986 to all the applicants who are represented in this petition ; and

7. Despite the serious implications of the prayer made in this O.A, we regret to note that the respondents have, to put it mildly shown gross indifference and have
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failed to file a reply despite the opportunities given to them. On 2.8.89 it was noted that for a proper adjudication, the reply of the respondents was necessary. Hence, a notice was directed to be issued with a warning that if they failed to file the counter, their right to file it would be forfeited. On 5.10.89 we observed as follows:-

"The Tribunal had passed an order on 2.8.89 directing issuance of notice to the Secretary, Ministry of Communication, Sanchar Bhawan, N/Delhi informing him that last opportunity is given to the respondents to file their counter-affidavit within three weeks and that in case they do not file the counter-affidavit within the said period, their right to file the counter-affidavit shall stand forfeited. The registry of the Tribunal had sent the notice to the Secretary, Ministry of Communication, New Delhi along with a copy of the order dated 2.8.89 but the same has been returned from the office of the Secretary, Ministry of Communication with some remarks scribbled on the acknowledgement slip by a subordinate official on 18.8.1989. Prima facie, it was highly improper to return the communication sent to the Secretary in such a manner. This practice has to be deprecated. We, therefore, direct that a photo copy of the acknowledgement slip along with the order dated 2.8.1989 and a copy of this order be sent again to the Secretary, Ministry of Communication, Sanchar Bhawan, New Delhi by Registered Post Acknowledgement due who should also direct the official who

returned the Tribunal's order dated 2.8.89 with the remarks scribbled on the acknowledgement slip to appear in person on the next date of hearing and give his explanation. List for further directions on 10.11.1989.

Mrs. Raj Kumari Chopra, counsel, present in the Court undertakes to file her memo of appearance on behalf of the respondents in this case and requests that a copy of this order be given to her. Let one set of the papers being sent to the Secretary, Ministry of Communication, Sanchar Bhawan, New Delhi be also given to Mrs. Chopra dasti."

The matter regarding giving explanation referred to above was not pursued. On 17.11.89, the learned counsel for both parties were present, but as the respondents had still not filed their counter, their right to file it was forfeited and the case was directed to be listed for final hearing according to its turn.

8. This O.A. was listed on 7.5.93 for peremptory hearing. As neither party was present it was dismissed in default. The applicants filed M.P. 1598/93 for restoration. Notice was served on the respondents but none appeared. Hence, on 16.9.93 the OA was restored to its original place in the cause list.

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9. On 14.12.93, when the OA was listed for peremptory final hearing at serial No. 7 of the cause list, the learned counsel for the applicant was present. None was present for the respondents. Hence the case was finally heard and reasoned for orders.

10. We have heard the learned counsel for the applicants and perused the records. The learned counsel for the applicant produced for our perusal a copy of the judgement dated 31.3.1993 of the Ernakulam Bench of the Tribunal in OA No. 1256/91 (N. Sasidharan & three others Vs U.O.I. represented of the Director General Department of Telecommunications, New Delhi) which is kept on record. It transpires from that judgement that the counterparts of the applicants in Kerala Circle filed OA 270/89 before that Bench which was disposed with a direction to the applicants to file a detailed representation before the competent authority and the same was directed to be disposed of in accordance with law, within a period of six months from the date of receipt of the order. It would appear that the respondents did not dispose of the representation. Therefore O.A. No. 1256/91 was filed before the Ernakulam Bench of the Tribunal for getting the same reliefs. It is seen from the judgement that when that OA was pending, the respondents decided to restructure the cadres in the

Department to meet the requirements of the Department and to have employees competent to handle the advanced technologies as introduced in the Tele-communication system. This was done after considering the representation. Thereupon, the applicants amended the OA and sought the following reliefs:-

- (i) To direct the respondents to remove the anomaly by suitable revision of the pay scale of the Technicians from the date of implementation of the 4th Pay Commission recommendations.
- (ii) To issue such other orders or directions as this Hon'ble tribunal may deem fit and proper in the circumstances of the case.
- (iii) To call for the records leading up to Annexures G, H, I and J and quash the same.
- (iv) To declare that no applying the evaluation point as per the National Productivity Council for fixing the pay scale of the Technician alone while the same applied to the other categories such as Junior Engineers, Transmission Assistant etc. is discriminatory and violation of Articles 14, 16 and 21 of the Constitution of India."

11. The learned counsel submitted that the said O.A. was allowed by the Ernakulam Bench. As the prayers made in this OA are similar to those in the above case decided by the Ernakulam Bench, the Learned counsel requested that this OA be allowed and the relief prayed for be granted, especially when the respondents have not resisted their claims.

12. We have considered the matter. We notice from th

judgement of the Ernakulam Bench in OA 1256/91 supra that the grievance of the applicants therein are the same as in the instant case as is clear from the following extract from para 3 of that judgement.

"The applicants are Technicians. According to the Recruitment Rules Technicians are eligible for promotion as Technical Supervisor in the pay scale of Rs 1400-2300, only after completion of sixteen years. The qualification prescribed for the post of technician is three years Diploma in Telecommunication/Electrical/Electronic or Mechanical Engineering. The applicants are fully qualified. They are getting the scale of Rs 975-1660 while similar categories of employees in the same department with lesser qualifications are getting pay scale as shown below:-

<u>Category.</u>	<u>Qualification</u>	<u>Scale</u>
1. Radio Technician	Diploma	1400-2300
2. J.E. Civil Wing Diploma	Diploma	1400-2300
3. Technician (Tele- com-Research Centre)	Matriculation	1320-2040
4. R.S.A.P.I.A.E.A.	F.S.C. (10 months training)	1320-2040
5. Laboratory Technicians	2 years Certificate	1200-2040

There is a patent anomaly in the pay. This has created disappointment and resentment among the Technicians, Bharathiya Telecommunications Technicians Union in which the applicants are

members pointed out this anomalous position before the 4th Pay Commission. But when the representatives of the Department submitted before the Pay Commission that the issue has already been taken up by the Department under rationalisation programme the Commission left the matter to be decided by the rationalisation committee.

The only difference is that in that O.A. the respondents chose to file a reply, while no reply has been filed in this O.A. That reply stated that the grievances of the applicants have been redressed by the Ann.F order issued in regard to restructuring as also the consequential orders of Ann. G, H, I and J. Therefore, the applicants therein amended the OA and prayed for quashing these orders.

13. After considering all aspects, the Bench passed the following order:-

" In the result, while upholding the new restructured scheme introduced to meet the requirements of the Department in the interest of advanced technologies of Telecommunication system, we are fully satisfied that justice would be met in this case if we dispose of the case with the direction that if, in the normal course and in accordance with steps already taken by the respondents for implementing the new scheme, the applicants' claim for posting as

TTA has not been considered and decided within a reasonable period of three years from today, the applicants are entitled to pay revision and higher scale of pay on par with other Junior Engineers working in Telecom. Department having similar qualifications and the same is payable from the date of expiry of the period as fixed above. The respondents should remove the anomaly in the pay of the applicants by offering suitable revision of their pay scale in case they do not become eligible for the benefit of restructure of the cadre introduced in the Telecom. Department within the period fixed above."

14. It is thus clear from the above judgement that a restructuring scheme has been introduced. some details of which are given in that judgement. The learned counsel for the applicant has also produced for our perusal a copy of the Department of Telecommunications letter No. 27-4/87-TE-II(2) dated 16.10.90 on the subject of "Introduction of new technical cadres in Group 'E' of the Department of Telecommunication which contains the details of the restructuring. That scheme has not been challenged in this O.A. It is undoubtedly a subsequent development and materially affects the prayers made in this O.A.

that

15. In the circumstances, we find/ it would be expedient to pass orders relying on the judgements of the Ernakulam Bench (supra)

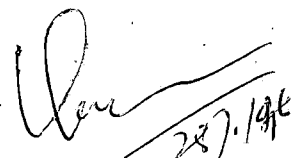
16. Accordingly, we dispose of this OA with the declaration:-

(i) that the applicants in this OA are entitled to the same relief as have been granted by the Emakulam Bench to the applicant, in OA 1256/91 that before/Bench, in para 28 of the judgement dated 31.3.1993 reproduced in para 13 supra and accordingly, the respondents are directed to implement that judgement in the case of these applicants also as if this direction also was given on 31.3.1993.

17. Before we part with this case, we find it necessary to direct the first respondent to institute an enquiry as to why no reply was filed to this OA and take appropriate action against the guilty person. The Registrar is, therefore, directed to send a copy of this judgement to the first applicant under a letter addressed to him by name.


(B.S. Hegde) 25/1/94

Member(J)


28/1/94
(N.V. Krishnan)

Vice Chairman(A)

S.K.