

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/020/01405/2014

Date of CAV : 16.12.2020.

Date of Pronouncement : 21.12.2020.



**Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member**

M.V.Durga Prasad S/o M.Sita Rama Rao,
Aged 48 yrs, Occ: TOA O/o Officer in Charge /
Heard of Office, Wireless Monitoring Station,
Dept of Telecommunications, Lakeview Layout,
Near VAMBAY Colony, Madurawada,
Visakhapatnam-48.

...Applicant

(By Advocate : Mr. N.Vijay)

Vs.

1. Union of India, Ministry of Communication & IT,
Dept. of Telecommunications, 20, Ashoka Road,
Sanchar Bhavan, New Delhi – 110001, Rep by its
Under Secretary.
2. Department of Telecommunications,
Wireless Monitoring Station, E-Wing, III Floor,
Pushpa Bhavan, Madangir Road, New Delhi-110062,
Rep by its Director.
3. Senior Administrative Officer,
Union of India, Ministry of Communication & IT,
Dept. of Telecommunications,
Wireless Monitoring Station, E-Wing, III Floor,
Pushpa Bhavan, Madangir Road, New Delhi-110062.
4. Head of Office, Wireless Monitoring Station,
Dept. of Telecommunications,
Lakeview Layout,
Near VAMBAY Colony, Madurawada,
Visakhapatnam-48.Respondents

(By Advocate: Mrs. K. Rajitha, Sr. CGSC)

ORDER
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:



2. The OA is filed challenging the reduction of grade pay from Rs.4,200 to Rs.2800.
3. Brief facts of the case are that the applicant was appointed as LDC in 1987 in the respondents organisation and in 1995 the posts of LDC/UDC were re-designated as Telecom Office Assistant (TOA) Grade I, II, III & IV. Applicant was promoted as TOA grade II in 2003. With the implementation of the 6th CPC, the pay of the applicant was fixed in the grade pay of Rs.4200 vide letter dated 13.7.2009, as per CCS (Revised Pay) Rules 2008 w.e.f. 1.1.2006. However, on 9.12.2010 an order was passed reducing the grade pay to Rs.2800. Representation was made to the 6th CPC anomalies committee and OA 479/2011 was filed which was disposed directing to dispose of the representation. Respondents rejected the request vide impugned order dated 30.10.2014 and hence, the OA.
4. The contentions of the applicant are the impugned order was issued without any reference to MOF and there were no reasons given. The reduction was violative of CCS (RP) Rules 2008 and such reduction would bring about disparity between Secretariat and non Secretariat Staff. The Postal Assistant scale was upgraded in 5th CPC but not that of TOA. The nature of duties of Postal Assistant and that of TOA are one and the same. Respondents should have compared with the Postal Asst. scale and then taken a proper decision.



5. Respondents in their reply statement state that, consequent to the redesignation of the LDC/UDC posts as Telecom Office Asst Grade I, II, III & IV, applicant was re-designated as TOA Grade I in 1995 and was granted promotion as TOA Grade II in 2003 in the pay scale of Rs.4500-7000. In the 5th CPC, the scale of the TOA Grade I was Rs.3200 – 4900 whereas that of the Postal Assistant was that of Rs.4000- 6000. In 6th CPC, at para 3.1.14, the staff working outside the secretariat in the posts of Head Clerk, Assistants/ Steno Grade II & equivalent, were placed in the PB-2 Rs.6500- 10,500 with grade pay of Rs.4200 and accordingly, the pay of TOA – Grade II was revised and fixed in the grade pay of Rs.4200 w.e.f 1.1.2006 vide order dated 13.7.2009. Later, Finance Wing objected that TOA Grade –II are not entitled for the grade pay of Rs.4200 and the same was confirmed by the MOF. Therefore, the grade pay was reduced to Rs.2800 on 9.12.2010. Later, on completion of 20 years MACP was granted with grade pay of Rs.4200 on 25.2.2014 w.e.f. 1.9.2008.

6. Heard both the counsel and perused the pleadings on record.
7. I. The dispute is about the reduction of the grade pay of Rs.4200 granted w.e.f. 1.1.2006 to the applicant working as TOA Grade –II, vide order 9.12.2010 of the respondents to Rs.2800 as per the impugned order. A close reading of the facts would reveal that the 6th CPC fixed the pay scales of those working outside the secretariat in the posts of Head Clerk, Assistants, Steno Grade –II and equivalent in PB-2 of Rs.6500- 10,500 with grade pay of Rs.4200. It appears that the respondents have equated the Telecom Office Assistant with Assistants and given the grade pay of Rs.4200. The internal finance wing of the respondents organisation has

pointed out that the TOA grade -II are not entitled for the grade pay of Rs.4200. The observation is correct since the posts of LDC/UDC were redesignated as TOA and since the tag of Assistant was added to the designation, the TOA in the relevant grade cannot be straight away equated to the cadre of Assistants which is a higher post. Merely because the designation has the word of 'Assistant' would not therefore make the applicant eligible for the grade pay sought under CCP (RP) Rules cited. The matter was clarified by the MOF on 13.11.2009, as reflected in UO Note dt.28.09.2010, as under:

"2. The matter has been examined in this department. It is advised to place TOA Gr. I to TOA Gr. III as per the normal replacement pay structure prescribed in Part-A (Section-I) of CCS (RP) Rules, 2008. As per this departments OM dated 13.11.2009, the posts that were in the pre-revised pay scale of Rs.6500-10500 as on 01.01.2006, will be granted the grade pay of Rs.4600/- in PB-2. Thus, TOA Gr. IV, which was in the pre-revised pay scale of Rs.6500-10500/- may be placed in the revised pay structure of PB-2 with grade pay of Rs.4600/-."

As per MOF, the applicant working in TOA Grade II is entitled for replacement scale and which is Rs.5200 – 20,200 with grade pay of Rs.2800 and therefore, he cannot stake claim for the grade pay of Rs.4200.

II. Besides, it has to be mentioned that there is no order in the CCS (RP) Rules 2008 i.r.o. grant of higher grade pay. Applicant was in the pre-revised scale of Rs.4500 – 7000 which was replaced by the pay band of Rs.5200 – 20,200 with grade pay of Rs 2800. Hence as per Part A (Section 1) of CCS (RP) Rules 2008 the normal replacement scale in the grade pay of Rs.2800 was granted to the applicant. The respondents committed a bonafide error in granting a higher grade pay of Rs.4200, which was

corrected and permitted under law, as observed by the Hon'ble Supreme Court in **VSNL v. Ajit Kumar Kar, (2008) 11 SCC 591**, as under:

46. *It is well settled that a bona fide mistake does not confer any right on any party and it can be corrected.*



III. Moreover, in the 6th CPC, for the TOA, the scale was replaced and not revised and upgraded. CPC recommendations are made by expert bodies and the Tribunal has very little scope to interfere with the recommendations. Prescription of scale of pay should normally be dealt with by expert bodies/committees as observed by the Hon'ble Apex Court in **Union of India v. Dineshan K.K., (2008) 1 SCC 586**, wherein it was held as under:

It has been observed that equation of posts and equation of pay structure being complex matters are generally left to the executive and expert bodies like the Pay Commission, etc.

Again in *State of Bihar v. Bihar Veterinary Assn.*, (2008) 11 SCC 60, at page 64 on a similar matter as under:

13. If the courts start disturbing the recommendations of the pay scale in a particular class of service then it is likely to have cascading effect on all related services which may result into multifarious litigation. The Fitment Committee has undertaken the exercise and recommended the wholesale revision of the pay scale in the State of Bihar and if one class of service is to be picked up and granted higher pay scale as is available in the Central Government then the whole balance will be disturbed and other services are likely to be affected and it will result in complex situation in the State and may lead to ruination of the finances of the State.

IV. Further, the applicant has claimed that the nature of duties of the PA (Postal Assistant) and that of TOA are similar but has not given reasons as to how they are similar. A postal assistant deals with banking,

life insurance, retailing, mail management, treasury functions, doubles up as system administrator, trainer, administrative functions, public relations, Business development and a host of other activities. Thus PA does multifarious functions depending on the post occupied. Keeping these factors in view the 5th CPC placed the Postal Assistants in the pay scale of Rs.4000-6000 and the TOA grade-I in Rs.3200-4900 w.e.f 1.1.1996. Hence the contention of the applicant that he has to be equated with the Postal Assistant would not hold good. To top it the MOF has clarified that the TOA grade -II is ineligible for grade pay of Rs 4200. Further, the nature of the duties discharged in a Secretariat relate to policy matters with pan India implications and where as in non Secretariat offices it is mostly related to implementation of the policy and confined to the jurisdictional area of the concerned office. Hence the disparity between the scales of Secretarial and non secretariat staff would arise, as is seen across the wide spectrum of the Central Govt. Offices and thus there can be no parity between the two which is one another contention of the applicant.

V. Thus considering the above deliberations we do not find any merit in the OA either on the basis of rules or on law and hence dismissed, with no order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER **(ASHISH KALIA)**
JUDICIAL MEMBER

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