



Central Administrative Tribunal Jammu Bench, Jammu

Hearing through video conferencing

O.A. No.61/285/2020
M.A. No.61/154/2020

Tuesday, this the 21st day of July, 2020

**Hon'ble Dr. Bhagwan Sahai, Member (A)
Hon'ble Mr. Rakesh Sagar Jain, Member (J)**

- 1. AMNISH KUMAR** Age 48 years
S/o Sh. Jagdish Raj
R/o ward No. 9,
Tehsil & District Kathua-184101
- 2. OMKAR CHAND** Age 50 years
S/o Sh. Prem Nath
R/o Bhadoo Billawar
ward no. 5, District Kathua-184204
- 3. KULDEEP KUMAR** Age 50 years
S/o Sh. Ram Saran
R/o village Durang, Billawar
District Kathua- 184204
- 4. MANGOO RAM** Age 47 years
S/o Sh. Des Raj
R/o Ward No. 6, Near Girl Higher Sec.
School Durang, Billawar, Kathua- 184204
- 5. DEEP KUMAR** Age 50 years
S/o Sh. Paras Ram
R/o ward no. 4, Billawar
District Kathua- 184204
- 6. MUL RAJ** Age 50 years
S/o Sh. Romelu Ram
R/o Ward No. 2, Kishen Pur
Dungara, Billawar District Kathua-184204
- 7. LEKH RAJ** Age 50 years
S/o Sh. Munshi Ram
R/o ward no. 2, Near Girl Middle School
Bardhat, Billawar, District Kathua-184204

8. RAJINDER VERMA Age 51 years
 S/o Sh. Krishan Chand
 R/o ward no. 4 Bilawar
 District Kathua- 184204

9. DHARAMPAUL SHARMA Age 51 years
 S/o Sh. Tirath Ram
 R/o ward no. 3, Changran, Tehsil & District
 Kathua- 184104

10. ZULFI SINGH Age 48 years
 S/o Sh. Daleep Singh
 R/o Bhatyari, Post office Dayala Chack
 Tehsil Hiranagar District Kathua-184142

11. ASHWANI KUMAR Age 47 years
 S/o Sh. Parkash Chand
 R/o Gurha Mundian Hiranagar
 District Kathua-184142

12. AJAY KUMAR Age 49 years
 S/o Sh. Bhagwan Dass Sharma
 R/o ward no. 9, Tehsil & District
 Kathua-184101

...Applicants

(Mr. Anil Khajuria, Advocate)

Versus

1. THE UNION TERRITORY OF JAMMU AND KASHMIR,
 Through its Principal Secretary to Government,
 Power Development Department,
 Civil Secretariat, Jammu
2. THE CHIEF ENGINEER,
 Electric Maintenance & Rural Electrification Wing,
 Jammu.
3. THE CHIEF ENGINEER,
 System and Operation Wing,
 Gladni, Narwal, Jammu
4. THE CHIEF ENGINEER,
 Distribution (JKPDCL)
 Canal Road, Jammu
5. THE EXECUTIVE ENGINEER,
 EM&RE Division, Kathua
6. THE EXECUTIVE ENGINEER,
 Sub Transmission Division
 Kathua
7. THE EXECUTIVE ENGINEER,
 EM&RE Division, Vijaypur.
8. THE EXECUTIVE ENGINEER,

EM&RE Division, Samba.

9. THE EXECUTIVE ENGINEER,
Sub Transmission Division, Samba. ...Respondents
(Mr. Sudesh Magotra, Deputy Advocate General)

O R D E R (ORAL)

Dr. Bhagwan Sahai, Member (A):

Amnish Kumar, son of Shri Jagdish Raj, resident of ward no.9, Tehsil & District Kathua and 11 others have filed this OA on 15.07.2020 seeking direction to the respondents to consider their case for grant of pre-revised pay scale of Rs.220-430 with all revisions from time to time from the date of their placement as Technician Grade-III, when they were appointed or promoted as Line Erectors, Electricians, Telephone Operators, Switch Board Attendants, Fitters and Mechanics etc., in the light of J&K High Court order dated 29.07.2013 in LPA 58/2013 along with clubbed matters titled **State of J&K Vs. Joginder Singh & others**, which has attained finality in view of Apex Court order dated 10.01.2018 in SLP No.23074-75/2014. The order passed by J&K High Court in LPA 142/2008 dated 27.07.2009 (**Chief Secretary to Govt. Vs. Subash Chander & ors.**) confirmed the earlier order of 26.02.2008 passed in SWP No.2455/2001, which has been implemented by order dated 13.10.2009 in view of J&K High Court judgments in other SWPs (**Rajesh Kumar Vs. State of J&K and ors., Rajinder Singh & ors. Vs. State and Manish Chib & ors. Vs. State and others.**

2. We have heard today Mr. Anil Khajuria, applicants' counsel and Mr. Sudesh Magotra, DAG, on behalf of respondents.

3. In the OA, the applicants have stated that -

- (i) they were appointed on promotion as Technician-III and designated as Line Erectors, Switch Board Attendants, Telephone Operators, Fitters, Mechanics etc. in the Power Development Department of State of J&K. Their services are governed by Jammu and Kashmir Power Development Department (Subordinate) Service Recruitment Rules of 1981 notified vide SRO 381 of 26.08.1981;
- (ii) the controversy involved in the present case has already been settled with the Apex Court order dated 10.01.2018 passed in SLP No.23074-75/2014, **State of J&K and ors. Vs. Javeed Ahmed Khan and ors.** with clubbed matters judgment dated 27.07.2009 in LPA No.142/2008 and several other SWPs. Although the applicants have been holding Technician-III posts, the pay scale of Rs.220-430 has not been granted to them by the respondents and they have been given only the lower pay scale of Rs.200-320 (pre-revised). As per the qualification prescribed under SRO 381 for Technician – III post, they are entitled for pay scale of Rs.220-430. The post of Technician-III on which the applicants have been working, was not included under the rules at the time of their appointment neither it is provided under the RRs of 1981. But on account of their continuous working on Technician-III posts, they are entitled for the above pay scale; and
- (iii) in the above mentioned High Court orders in respect of similarly placed other applicants, the respondents have granted the pre-revised pay scale of Rs.220-430. The

applicants have submitted a number of representations to the respondents such as of 20.06.2018, legal notice dated 13.09.2019 and the last representation to the Chief Engineer dated 25.05.2020. But the respondents have not yet redressed their grievance. Therefore, this OA.

4. During the submissions, the applicants' counsel submitted that the applicants would be satisfied if this OA is disposed of with direction to the respondents to consider their case and decide it in view of the High Court decision relied upon by them in case of similarly placed other employees of the respondent Corporation. The respondents' counsel has no objection to such disposal of the OA.

5. In view of the above submissions, we dispose of this OA with direction to the respondents to consider and decide the pending representations of the applicants, the latest being dated 25.05.2020 as per provisions in relevant Service and Pay Rules and in view of the High Court order relied upon by them, if it covered identically placed other employees. While examining the representations of the applicants, the respondents should also consider as to whether their claim has become stale or dead as per the view taken in a number of Supreme Court decisions. It should be noted that we have not expressed any opinion on merits of the applicants' case and on applicability or otherwise of the case law relied upon by them. This exercise should be completed by the respondents within a period of 60 days from the date of receipt of a copy of this order. With this, the OA stands disposed of. No costs.

(Rakesh Sagar Jain)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)