

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

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OA No.148/90.

Date of decision:- February 9, 1993

Sh.R.K.Singh & Ors. ... Applicants

versus

Union of India through
Secretary,
Ministry of Urban Development
New Delhi & anr. ... Respondents

CORAM: THE HON'BLE SHRI P.C.JAIN, MEMBER(A)
THE HON'BLE SHRI J.P.SHARMA, MEMBER(J)

For the Applicants .. Sh.J.P.Verghese,
Counsel.

For the Respondents .. None

JUDGEMENT

HON'BLE SHRI P.C.JAIN, MEMBER(A):

All the 24 applicants in this OA under Section 19 of the Administrative Tribunals Act, 1985, are working on the post of Electrician in the Central Public Works Department, Government of India. Their grievance is that even though the nomenclature of the post is of Electrician yet the duties attached to the post are more supervisory in nature than in other supervisory cadres and that they have not been given the scale of Rs.1400-2300 which was recommended by the Fourth Central Pay Commission for the lowest supervisory cadre. They have accordingly prayed for a direction to the respondents to implement the lowest supervisory scale of Rs.1400-

2300 also in their case with effect from 1.1.86 with all consequential benefits, including arrears. This CA was filed on 12.12.89 and while admitting the same by an order dated 8.2.90, the question of limitation was kept open.

2. The respondents have contested the OA by filing their reply to which rejoinder has also been filed by the applicants. We have perused the material on record and also heard the learned counsel for the applicants. None appeared for the respondents at the time of oral hearing of the case.

3. The main contention of the applicants is that in para '63-item 16 of the C.P.W.D. Manual -1984 Edition, the duties of the post of Electrician are:-" general supervision to the work of electrical including carrying out complicated maintenance works on H.T. and L.T. Electrical installations." It is further contended that according to the aforesaid rules, one of the qualifications prescribed for direct recruitment to the post is that the candidate must possess electrical

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supervisory certificate of competency.

It is also stated that a Electrician has under him not less than 4 to 5 Wiremen in the scale of Rs.950-1500, 2 to 6 Assistant Wiremen, 5 to 6 Khalasies, 2 or 3 Mechanics, 6 to 8 Operators and sometimes Cable Jointers Generator Operators, Lift Mechanics, etc. and these employees are also supervised by the Electrician and substantially the post of Electrician is nothing but a supervisory post. The stand of the respondents, on the other hand, is that as the Electricians working in the C.P.W.D. are not working in a supervisory capacity and as they are doing skilled nature of job they have been placed in the highly skilled category. It is further stated that the main job of Electrician is to carry out complicated maintenance work of H.T. & L.T. electrical installation which the workers like Wireman, Armature Winder, Lineman etc. cannot execute. In addition to this, their job is general supervision and guidance to the work of electrical and that is why they have been placed in the highly skilled category and given a higher scale than workers such as Wireman,

Lineman, Armature Winder etc. who carry out simple type of electrical work and are placed in the skilled category and have been given the scale of Rs.950-1500 with effect from 1.1.86. It is further stated that there is also a supervisory category of Foreman(Electrical) in C.P.W.D. who supervises the job of Electricians and is a feeder cadre for promotion to the post of Foreman(Electrical) in the scale of Rs.1400-2300. It may be stated that the scale of pay admissible to the applicants prior to 1.1.86 was Rs.330-480 and the revised scale with effect from 1.1.86 is Rs.1200-1800 which is said to be applicable to the Workman of highly skilled category. Before we discuss the rival contentions of the parties on this point, we may refer in the paragraph below the recommendations of the Fourth Central Pay Commission.

4. In Para 11.25 of the report of the Fourth Central Pay Commission, the distribution of posts of technical supervisors in the various organisations is said to be mainly in the then existing scale of pay of Rs.380-560 at the bottom

and Rs.840-1200 at the top, but the majority of the posts are stated to be in the scales of pay Rs.380-560, Rs.425-700, Rs.550-750 and Rs.700-900. In Para 11.27 it is stated that the posts in the scale of Rs.380-560 form the lowest supervisory level. The report further states that since Rs.380-560 is also the scale of highly skilled grade I employees, a request has been made for upgradation of posts at this level. It is further stated that " Of the major departments, railways alone have a lower supervisory scale of Rs.330-480 for mistris. We understand that mistris working in certain selected areas like loco and electric multiple unit car sheds, where they are in independent charge and supervise highly skilled artisans, are given special pay of Rs.35/-per month. Taking note of these facts, we are of the view that in all departments the lowest supervisory level should be in the scale of Rs.1400-2300. The work content of mistris in the scale of Rs.330-480 should be reviewed by railways. Those who are basically workers should be placed in the highly skilled grade(Rs.1200-1800) and others who can be clearly identified

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as Supervisors may be given the scale of Rs.1400-2300." Thereafter, in Para 11.28, the Commission recommended, inter alia, scale of Rs.1400-2300 for technical supervisors in the old scales of Rs.380-560, Rs.380-640, Rs.425-600, Rs.425-640, Rs.425-700, Rs.455-700 and Rs.550-750. From this, it is clear that except in the Railways, the lowest unrevised scale of Rs.380-560 for the post of Technical Supervisor was recommended to be revised to the new scale of Rs.1400-2300. In the Railways also, the incumbents in the scale of Rs.330-480 were not recommended to be given the scale of Rs.1400-2300 automatically. Relevant portion in respect of the Railways from para 11.27 has already been extracted above and it is seen that in that grade some mistris were given the independent charge and they supervised the highly skilled artisans and accordingly were given special pay of Rs.35 per month. Thus it is clear that in the Railways in the pay scale of Rs.330-480 there were persons who were working as highly skilled artisans and some others who not only had independent charge in certain units but supervised highly skilled artisans.

In the case before us, the Electricians in the lower scale of Rs.330-480 are not stated by the applicants themselves to have held independent charge and supervising work of highly skilled artisans. It is thus clear that the recommendations of the Commission in regard to the Railways is not applicable to the applicants holding the posts of Electrician in the C.P.W.D. for two reasons. Firstly, those working in the scale of Rs.330-480 were not automatically allowed the lowest supervisory scale of Rs.1400-2300 and only those who could be clearly identified as supervisors were to be given the scale of Rs.1400-2300. Secondly, the lowest pre-revised scale for the post of Technical Supervisor to the new scale of Rs.1400-2300 recommended by the Commission was Rs.380-560 while the applicants in the case before us were in the scale of Rs.330-480.

5. It has been strongly urged by the applicants that even though Secretary to the Government of India for the Department of C.P.W.D. appeared as witness before the Commission, he failed to point out to the Commission that C.P.W.D. also have Electricians who are working at supervisory

level in a lower grade of Rs.330-480, and accordingly their case could not be considered, by the Pay Commission though the Commission considered the case of the Railways for the scale of pay of Rs.330-480. This contention, in our view is misconceived. In view of the stand of the respondents that the post of Electrician is not a supervisory post, it would be unrealistic to expect that the Secretary in the concerned department of the Government of India should have stated before the Commission that the post of Electrician in the C.P.W.D. was a supervisory post.

6. The learned counsel for the applicants also made available to us the photostat copies of the result-sheet of some of the applicants, perusal of which show that the examination is for the grant of "certificate of competency Class I (Electrician) " and it is not the same certificate, e.g., "electrical supervisory certificate of competence" as is mentioned in the qualifications prescribed for direct recruitment to the post of Electrician. As regards the contention that Electrician has under him, a number of other persons,

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suffice it to say that all these are in the lower scales of pay then the pay scale allowed to the post of Electrician. It may be mentioned here that each organisation has a hierarchy of its own and the pay structure for various posts in a particular organisation should not ignore the hierarchy. It is not only possible but often happens that a person having the same qualifications on appointment to a higher post may be in a higher scale of pay than a person working in the lower post, the reason being the qualitative difference in the responsibilities shouldered by the two.

7. The respondents in their reply have also stated that pursuant to dispute between the management of C.P.W.D and the representatives of the C.P.W.D Mazdoor Union, a voluntary agreement for referring the dispute for arbitration was arrived at in the memorandum of settlement under Section 12(3) of the Industrial Disputes Act, 1947, on 5.9.86 (Annexure R-II). In this memorandum of settlement, the Union's demand for re-classification/ re-categorisation of workcharged staff and regular transferred categories with effect from 1.1.73 inter alia was decided

to be resolved by voluntary Arbitration under Section 10-A of the Industrial Disputes Act, 1947. Accordingly, the same was referred to / Board of Arbitration by statutory notification dated 31.10.86. It is further stated that the demand inter alia included a skilled supervisory category in the pay scale of Rs.425-700 for the Electrician (than in the pay scale of Rs.330-560 in the highly skilled category). The team of Arbitrators submitted their awards on various demands on 31.1.88 wherein it has been recommended that the Electricians may be placed in the category of highly skilled grade-III. But, the award has been challenged in the Delhi High Court through a writ petition. The recommendations of the arbitration have been stayed by an order passed on 10.4.89. Accordingly, the matter is stated to be sub judice. The applicants in their rejoinder have stated that the aforesaid industrial dispute, award and the pendency of writ petition have no connection with the issue raised in the OA. In the absence of a full copy of the award, we are not inclined to give a finding either way on the question whether

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industrial dispute ,the award given by the Arbitrators and the pendency of the writ petition in the Delhi High Court operate as res judicata or not. We have, however,noticed that the issue of re-classification/re-categorisation in the aforesaid industrial dispute is with reference to the demand of the Union with effect from 1.1.73 while the prayer before us is for giving to the applicants a scale of pay with effect from 1.1.86.

8. Pursuant to the recommendations of the Fourth Central Pay Commission, the scale of pay for the post of Electrician held by the applicants was revised with effect from 1.1.86 by orders issued in 1986 itself. The applicants have filed this OA on 12.12.89 praying for a relief with effect from 1.1.86. That relief with consequential benefits from 1.1.86 is barred by limitation. The learned counsel for the respondents rightly and fairly conceded that in case the applicants' prayer for grant of Rs.1400-2300 is considered,the same can be allowed from a subsequent date keeping in view the date of the filing of the OA and the

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limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985. However, in view of our foregoing discussion, we are of the considered view that the applicants cannot be said to be holding exclusive supervisory post and as such, keeping in view the discussion and recommendations of the Fourth Central Pay Commission which have already been adverted to above, they are not entitled to be granted the scale of Rs.1400-2300.

9. In view of the above, we are of the considered view that the OA is devoid of merit and the same is accordingly dismissed leaving the parties to bear their own costs. We, however, make it clear that this decision would not prejudice the rights of the applicants which may accrue to them in the pending litigation in the industrial dispute.

J.P. Sharma
(J.P. SHARMA)
MEMBER(J)

P.C. Jain
(P.C. JAIN)
MEMBR(A)

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