

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 1372/91

New Delhi this the 8th day of June, 1995.

Hon'ble Shri J.P. Sharma, Member(J).

Hon'ble Shri B.K. Singh, Member(A).

1. Smt. Radha Wadhawan,
W/o Shri M.C. Wadhawan,
3/III, President Estate,
New Delhi.
2. Smt. Veena Saxena
W/o Shri V.K. Saxena
R/o II/51, President Estates,
New Delhi.
3. Mrs Bimla Joseph,
W/o Shri Patrick Joseph,
R/o II/25, President Estate,
New Delhi.
4. Smt. Prabha Bhagat,
W/o Shri Bhagat Ram,
100/A, East Azad Nagar,
Delhi.

..Applicants.

By Advocate Shri G.D. Bhandari.

Versus

1. Secretary,
President's Secretariat,
Rashtrapati Bhavan,
New Delhi.
2. Secretary,
Department of Personnel & Training,
Ministry of Personnel & Training,
Administrative Reforms & PC & Pension,
Govt. of India,
New Delhi.

..Respondents.

By Advocate Shri P.H. Ramchandani, Sr. Counsel.

O R D E R

Hon'ble Shri B.K. Singh.

This O.A. No. 1372/91 is directed against the letter No. A-37011/19/86-Admn. dated 23.7.1990 issued by the Under Secretary (Admn.), President's Secretariat, New Delhi rejecting the prayer of the



applicants for merging the cadre of Telephone Operators with that of LDCs in the President's Secretariat (Annexure A-I of the paper book). Referring to the representation dated 24.9.1990, a representation (Annexure A-2) was also submitted and the final orders have been passed by the respondents rejecting the request of the applicants vide order dated 8.3.1991. This is marked and annexed as Annexure A-3 of the paper book.

2. Admitted facts are that the applicants are Telephone Operators in the President's Secretariat holding civil posts under the Govt. of India. The applicants were appointed on different dates as Telephone Operators in 1968, 1970 and 1972 vide Annexure A-3 of the paper book. The cadre of the Telephone Operators in the President's Secretariat consists of the following:

- (1) Telephone Incharge: 1 post
(Grade Rs.1600-2660)
- (2) Shift Operators : 2 posts
(Grade Rs.1400-2300)
- (3) Telephone Operators: 10 posts
(Grade Rs.975-1600)

3. The recruitment rules for the President's Secretariat were issued in the year 1976 and were amended on 26.12.1988 vide Annexure A-4. This is GSR No. 1205(E) and this came into force w.e.f. 26.12.1988.

4. For direct recruitment to various categories of civil posts, the Secretary to the President is required to constitute Selection Boards with the approval of the President of India. The selection has to be made by a test from amongst persons who possess the requisite qualifications and satisfy the

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conditions specified therefor and the Secretary to the President shall decide whether the said test shall be written test or oral or both and whether in addition there will be any physical test and also determine the criteria for selection provided that where the appointing authority is the President, the Secretary to the President shall take such decision and determine such criteria with prior approval of the President. The recruitment rules further envisage that the Selection Board constituted under Clause (a) shall follow the procedure specified in Schedule III-A. The Schedule III-A has been placed on the paper book at page 22. In the schedule, the category of Telephone Operators is shown at serial No. 33.

5. It is admitted that these posts are all Group 'C' Non-Ministerial Non-Gazetted posts though the transfer on deputation is also indicated in the mode prescribed in the rules and one or two persons who came from the Department of Telecommunications were subsequently repatriated. The applicants have contended that they have filed several representations to the various authorities in the President's Secretariat and also approached the authorities and ~~made~~ met them individually and in groups but to no avail for opening the avenues of promotions to the Telephone Operators working in the President's Secretariat. A perusal of the record also shows that the applicant Smt. Radha Wadhawan wrote a letter to the Chief Justice of India referring to the grievances of the Telephone Operators working in the President's Secretariat and sought his intervention but there

is no reply received from the office of the Chief Justice of India.

6. We heard the learned counsel Shri G.D. Bhandari, for the applicant and Shri P.H. Ramchandani, Sr. Counsel, for the respondents, and perused the records of the case.

7. The reliefs prayed for in this O.A. are:

- (i) Set aside and quash respondent's orders dated 23.7.1990 (A-1) and the rejection of representation orders dated 8.3.91 (A-3), being arbitrary, malafide, illegal and badly vitiated as humbly submitted in the foregoing para.
- (ii) Direct/Command/Order the respondent to extend the benefit of the orders issued by the DOP on 7-11-85 (A-7) and induct the cadre of Telephone Operators including the applicants serving in the President's Secretariat in the cadre of Lower Division Clerks in terms of the aforesaid orders.
- (iii) Command/Direct/Order the Respondent to treat the Telephone Operators Office as a participating office of the Central Secretariat Clerical Service and assign the seniority in the CSCS cadre in terms of the aforesaid DOP orders.



(iv) Direct/Command/orders the respondents to give all the consequential benefits to the applicants and other similar situate Telephone Operators working in the President's Secretariat.

8. The learned counsel for the applicant argued that the impugned orders are in violation of the D.O.P.T. O.M. dated 7.11.1985 (Annexure A-7) which is clear and unambiguous. It lays down that all posts of Telephone Operators in the participating offices should be filled only by regular LDCs of the Central Secretariat Clerical Service (hereinafter referred to as 'the CSCS') and that the existing Telephone Operators who do not belong to the CSCS should be inducted into the CSCS after they qualify in the examination conducted by the Institute of Secretariat Training and Management (IST&M). It was further argued that the exclusion of the cadre of Telephone Operators in the President's Secretariat from the CSCS is discriminatory and in violation of their fundamental rights as enshrined in Articles 14 and 16 of the Constitution. It was repeatedly hammered that there is no avenue of promotion and the applicants have put in more than 10 years of service in many cases without a single promotion in their service career and if they are merged with the CSCS cadre, at least they would be eligible for promotion to the rank of UDCs/Assistants. It was further argued that the circular issued by the DOPT has to be followed by all including the President's Secretariat.

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9. In reply to the various arguments, the learned counsel for the respondents clearly rebutted the arguments by saying that the cadre of the President's Secretariat is completely separate and independent and it is not a participating unit and, therefore, the instructions of the DOP&T are not applicable to the President's Secretariat. These Telephone Operators and other categories of the staff recruited in the President's Secretariat are not through the Staff Selection Commission and they are recruited by the President's Secretary or other officers in whom the powers are vested and where the Secretary is not competent, the recruitment is made with the approval of the President of India. Thus, there is no question of merger of the Telephone Operators of the President's Secretariat with the CSCS. In the CSCS, all the posts of Telephone Operators in the participating offices have to be filled up only by regular LDCs belonging to the CSCS but this is not so in the case of President's Secretariat. Secondly, it was argued that the existing Telephone Operators, who do not belong to the CSCS, from the participating units can be inducted in CSCS after they have qualified in an examination of the same standard as that conducted by the IST&M for recruitment of LDCS. Two chances have been allowed within which the existing Telephone Operators attached to the various Ministries/Departments have to clear the examination, failing which they have to continue in their posts without being inducted into CSCS. Necessary amendments to the CSCS Rules, 1962 and regulations have now been issued and the rules for qualifying examinations have been notified separately. In so far as the merger of Telephone Operators of the participating units in the Ministries/Departments is concerned, the

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order also envisages that those LDCs who worked as Telephone Operators would be eligible to get a special pay of 10% of their basic pay subject to a minimum of Rs.15/- while working as Telephone Operators and such LDCs are required to be rotated every two years and they will be eligible for confirmation and promotion in the Clerical Service. On the basis of the recruitment rules for the CSCS and the recruitment rules for the Telephone Operators working in the President's Secretariat, the learned counsel clearly brought out the distinguishing features of the two. The President's Secretariat has its own rules of recruitment for the various categories of staff including Telephone Operators and it is also clear that they are not recruited through Staff Selection Commission. They are recruited either by the Secretary or President or by any other officer with the concurrence of the President of India. The learned counsel further argued that the pay scale in Ministries/Departments of the Telephone Operators and those of LDCs is Rs.950-1500 whereas the Telephone Operators working in the President's Secretariat are getting the pay scale of Rs.950-1660 which is the pay scale recommended by the 4th Pay Commission for the Telephone Operators of the Telecommunications department. The Telephone Operators working in the President's Secretariat are in a higher grade and there is no possibility of merging them with the LDCs who are drawing less pay than them. The scale of pay of the LDCs working in the President's Secretariat is Rs.950-1500 and not Rs.950-1660 as is the initial pay scale of the Telephone Operators working in the Rashtrapati Bhawan. It was further argued that



as a result of the representations of the applicants, the matter was taken up with the Department of Expenditure to create four posts of shift supervisors in the scale of Rs.1400-2300 and in spite of the best efforts made by the President's Secretariat only two posts were sanctioned in the scale of Rs.1400-2300. In addition, another post of Incharge Telephone Operator was created in the pay scale of Rs.1600-2660. Thus, three posts are available for purposes of promotion. The main thrust of the arguments was that the work content of the Telephone Operators in the President's Secretariat is qualitatively different from the work content of the Telephone Operators working in the Ministries/Departments. If it is a question of stagnation, then the learned counsel argued that the LDCs who have put in 18 years of service have not been promoted as UDCs and UDCs having put in more than a decade have not been promoted as an Assistant in the President's Secretariat. The representations filed by the applicants were duly considered and they were informed of the decision that it was not feasible to merge the cadre with clerical cadre which carries lower pay scale than those of the Telephone Operators. The work content is similar to those of the Telephone Operators working in the Telecommunications Department and that is the reason why the President's Secretariat adopted the pay scales recommended for the Telephone Operators working in the Telecommunications Department. These Telephone Operators working in Telecommunications Department are also not a participating unit of the DOP&T and the circular of the DOP&T is not applicable to them also. Similarly, the President's Secretariat

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does not participate in the CSCS and, therefore, the provisions of the aforesaid O.M. issued by the DOP&T are not applicable to the Telephone Operators of the President's Secretariat. The duties and the responsibilities of the Telephone Operators working in the President's Secretariat are round the clock and they have to be trained to observe utmost courtesy consideration since they are required to deal not only with the Prime Minister and other Ministers trying to contact the President but also with Heads of other countries and their Embassies in Delhi and outside Delhi. No injustice according to the learned counsel has been done to the applicants and none of their fundamental rights have been infringed and the principles of natural justice have not been violated by the respondents and, therefore, the Articles 14 and 16 of the Constitution are not attracted. The applicants themselves admit having/ ^{been} recruited by the President's Secretariat and nobody had forced them and once they accepted the terms and conditions without any howl or protest, they are estopped from raising any dispute in future. The respondents have not taken any illegal, arbitrary or discriminatory action against the applicants. On the other hand, the respondents have been making all efforts to improve the career prospects of the Telephone Operators working in the Rashtrapati Bhawan. It is admitted that the duties and responsibilities and the courtesy expected from the Telephone Operators of the Rashtrapati Bhawan cannot be compared with those of the Telephone Operators working in the Telecommunications Ministry. In spite of best efforts, they could only get three posts upgraded in the pay

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scales of Rs.1400-2300 and Rs.1600-2660. Therefore, the charge levelled against the President's Secretariat that they have not been making efforts to improve prospects the career/of the Rashtrapati Bhawan Telephone Operators is not just and fair.

10. After hearing the rival contention and going through the pleadings on record in O.A., Counter and Rejoinder, we find that the cadre of the Telephone Operators of the Rashtrapati Bhawan is a separate cadre governed by the recruitment rules framed in consultation with the President of India and these are policy decisions in which the Tribunal, High Courts and Supreme Court cannot interfere. The President is the head of the State and even the President's Secretariat functions as an aid to the President and they have to be model employees and that is also one of the reasons why the pay scales of Telephone Operators have been kept at a higher level than those of the CSCS. The pay scales of the Telephone Operators working in the Telecommunications Department have been adopted by the President's Secretariat and they have been able to create three promotional posts whereas no promotional posts have been created in the Telecommunications Department where they have other supervisory posts because it is a vast department spread all over the country, but the Telephone Operators of Rashtrapati Bhawan are confined within the precincts of the Rashtrapati Bhawan itself. The 5th Pay Commission is already considering the various demands of the various categories of employees and it is presumed that they will consider the demands of the Telephone Operators of the Telecommunication Department and as and when the recommendations are received and the new pay scales recommended, it is presumed that

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Rashtrapati Bhawan will adopt those pay scales for the Telephone Operators of the Rashtrapati Bhawan also. In addition to this, we would direct the applicants to file a representation collectively to the Chairman of the 5th Pay Commission, Justice Pandian and his companion colleagues, to look into their grievances and to find out promotional avenues for them and to create ~~new~~ posts so that at least each one of them can aspire to get at least one promotion in their service career notwithstanding the higher pay scale that is given to them. It would be better to file that representation along with the association of Telephone Operators of the Telecommunications Ministry since, if further promotional avenues are created for them and if their pay is enhanced, the benefit will also accrue to the Telephone Operators working in the President's Secretariat. Admittedly, the job is onerous and they are expected to work round the clock and, therefore, there should be more shift supervisors and there can be other selection grades also introduced for them. This can be done only by an expert body like the 5th Pay Commission. Therefore, instead of knocking the doors of the Tribunal, it would be better for them to approach the 5th Pay Commission for redressal of their grievances.

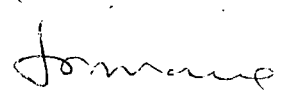
11. We hold that the President's Secretariat is neither a Ministry nor a Department of Govt. of India and not a participating unit and, therefore, they do not belong and cannot be merged with the CSCS and the rules and regulations issued by the DOP&T are not applicable to them though they are civil servants. The application fails and is dismissed but they are given liberty to approach the 5th Pay Commission, an expert body, which is now looking into the grievances of the civil servants of the country,

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and if so advised, they may file a representation along with the Telephone Operators of the Telecommunication Department or they may themselves file a representation collectively to the 5th Pay Commission for redressal of their grievances.

12. With these observations, this O.A. is disposed of finally but without any order as to costs.


(B.K. SINGH)
MEMBER(A)


(J.P. SHARMA)
MEMBER(J)

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