

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 2070/2004
MA 1766/2004
MA 1615/2005

New Delhi, this the th 17 day of August, 2006

Hon'ble Shri Shanker Raju, Member (J)
Hon'ble Shri N.D. Dayal, Member (A)

1. Shri S.S. Sharma, S/o Late Shri Rameshwar Dayal
R/o C-6/156, Yamuna Vihar, Delhi – 110 053.
Working as Assistant Director (OL)
O/o GM (East) MTNL
10, Darya Ganj, New Delhi – 110 002.
2. Smt. Saroj, W/o Shri S.S. Rawat
R/o D-79, Mandakini Appartments
Pitam Pura, New Delhi – 110 034.
Working as Assistant Director (O.L.)
O/o GM, MTNL-West-II DRG
New Delhi – 110 027.

...Applicants

(By Advocate Shri M.L. Chawla)

V E R S U S

Union of India through

1. Secretary, Ministry of Telecommunication
New Delhi.
2. Chairman-cum-Secretary
Telecom Commission, Sanchar Bhawan
New Delhi.
3. Chairman-cum-Managing Director
MTNL, Jeevan Bharti Building,
Connaught Place, New Delhi.

...Respondents

(By Advocate Shri R.N. Singh for R.1&2
Ms. Nidhi Bisaria for R.3)

ORDER

Shri Shanker Raju,

Applicants who have been absorbed by an order dated 4.2.2005 as Hindi Translator Gr. I in MTNL w.e.f. 1.11.1998, by virtue of this OA have sought implementation of order of the Official Language Department of Ministry of Home Affairs dated 26.2.2003 as well as order dated 2.4.2004 insofar as grant of pay scale of Rs.6500-10,500 on notional basis w e f 1.1.1996 and with actual basis is concerned, w e f 11.2.2003.

27

2. Insofar as jurisdiction is concerned, learned counsel of the applicants Shri M.L. Chawla has sought to place reliance on a decision of the Apex Court in *APSEB v. M.A.H. Azami* 1991 (Supp.) 3 SCR 298 to contend that the Tribunal would have jurisdiction if a person is holding a public post and relief claimed is in respect of his service conditions.

3. Learned counsel would contend that when the pay scales recommended by the Department of Official Language have been extended not only to the CSOLS officers but also to the Department of Atomic Energy vide OM dated 11.8.2003, denial of the same to the applicants, being similarly circumstanced when this benefit is extended to all Ministries and Departments w.e.f. 1.1.1996 when the applicants were holding the permanent lien in the Department of Telecommunication is discrimination meted out to them, which cannot be countenanced in the wake of Articles 14 & 16 of the Constitution of India.

4. In the reply filed by respondents No.1&2 they have contended that Department of Official Language have replaced the pay scale of CSOLS cadre which on being examined for extension by the Implementation Cell of Ministry of Finance in the case of Assistant Director (Official Language) in DoT was not accepted as the revision is allowed to the members of CSOLS but not to others like the applicants.

5. The other respondents stated that as the applicants have been absorbed in MTNL w e f 1.11.1998, they cease to be the holders of the civil post and as such this Tribunal has no jurisdiction to entertain their grievance.

6. We have carefully considered the rival contentions of the parties and perused the material on record.

7. Insofar as jurisdiction is concerned, service matter has been defined under Section 3 (q) of the A.T. Act, 1985 (hereinafter referred to as an Act) is in relation to the persons relating to the conditions of service including pay scales and allowances. Section 14 deals with the jurisdiction provides exercise of jurisdiction over matter concerning conditions of service and Section 19 provides that person aggrieved by an order pertaining to any matter within the

jurisdiction of the Tribunal is amenable to the jurisdiction. Applicants who were admittedly the employee of DoT till 1.11.1998 when he has been permanently absorbed as Hindi Translator Gr. I was holding and officiating the post of ADOL. In the wake of Vth CPC recommendations, Ministry of Home Affairs by an order dated 26.2.2003 revised the pay scale of Hindi staff in CSOLS. This has been clarified further in order dated 2.4.2004 where the pay scale of ADOL has been revised to Rs.7500-12000. Clause IV of the order shows that all other Ministries and Departments to take immediate action in this regard. Accordingly, we find on record that Department of Atomic Energy has extended the pay scale in compliance of the directions.

8. The objection raised by the Ministry of Finance while rejecting the claim for grant of pay scale to the applicants is that DoT is not the Member of CSOLS.

9. The cause of action has arisen for grant of pay scale as revised to the applicants from 1.1.1996 when they were still holder of a civil post in DoT. Accordingly, in Azami's case supra, the Apex court rule that once a person is holding a public post and the reliefs claimed in respect of service conditions, the claim of the applicants w e f 1.1.1996 of the revised scale while holding a civil post and the pay and allowances being condition of service, this Court has jurisdiction to redress his grievance even if a person holds a public post. It is immaterial whether the remedy is sought against the Government or non-Government organization.

10. The objection raised is over ruled.

11. On merit what we find that once the Department of Atomic Energy has extended the revised pay scale to the ADOL, the claim of the applicants as to performance of the similar duties and identical situated functional requirements having not govern by the Implementation Cell of the Ministry of Finance, the applicants who have a fundamental right and a right under directive principle of State policy under Article 39 of the Constitution of India, in the wake of principle of equal pay for equal work, their request is obligated to have been considered in this conspectus though the representation of the applicants addressed to the

Director (Establishment) in May 2003 clearly raises this aspect of the matter but was not considered. What has been considered is only admissibility of revised pay scale to the officers of CSOLS only.

12, In the above view of the matter what we find that on administrative side when the prerogative to grant pay scale is on them and is entrusted to expert bodies, at least consideration is mandated which has not been satisfied in its true perspective. Accordingly, OA is disposed of with directions to respondents No.1&2 that in the event applicants prefer a representation raising grounds of revised pay scale w e f 1.1.96 with a detailed particulars as to being similarly situated in all functional requirements, the aforesaid shall be forwarded to the Ministry of Finance for redressal of the grievance of the applicants and a reasoned and speaking order shall be passed within a period of three months from the date of receipt of a copy of this order. No costs.



(N.D. Dayal)
Member (A)



(Shanker Raju)
Member (J)

/vikas/