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**CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH**

**Original Application No.2660/2004**

**New Delhi, this the 4<sup>th</sup> day of August, 2005**

**Hon'ble Mr. Justice V.S. Aggarwal, Chairman  
Hon'ble Mr. S.A.Singh, Member (A)**

Shri Vijay Bahadur  
S/o Shri Rajpati  
R/o F-3, Bhikaji Cama Place  
Fire Station  
New Delhi. .... Applicant

**(By Advocate: Sh. S.K. Gupta with Sh. T.S.Malik)**

**Versus**

1. Govt. of NCT of Delhi  
Through Chief Secretary  
Delhi Secretariat  
Players Building, I.P. Estate  
New Delhi – 110 002.
2. Principal Secretary (Home)  
Govt. of NCT of Delhi  
Delhi Secretariat  
Players Building, I.P. Estate  
New Delhi – 110 002.
3. Principal Secretary (Finance)  
Govt. of NCT of Delhi  
Delhi Secretariat  
Players Building, I.P. Estate  
New Delhi – 110 002.
4. Chief Fire Officer  
Delhi Fire Service Headquarters  
Connaught Circus  
New Delhi – 110 001. .... Respondents

**(By Advocate: Sh. Vijay Pandita)**

**O R D E R**

**By Mr. Justice V.S.Aggarwal:**

Applicant (Vijay Bahadur), by virtue of the present application, seeks to quash and set aside the action of the

*V.S. Aggarwal*

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respondents in not conferring the benefit of the higher pay scale of Rs.380-560 and to direct the respondents to extend the benefit of the Judgment in OA 983/1995 and grant the benefit of pay scale of Rs.380-560 for the period when the applicant worked as Radio Telephone Operator.

2. The relevant facts are that the applicant was engaged as Radio Telephone Operator and ~~was~~ worked in the year 1985 in the scale of Rs.330-480. As per the applicant, he is entitled to the scale of Rs.380-560. On 20.4.1993, because of direct recruitment, the applicant was appointed as Sub Officer. Some of the Radio Telephone Operators, Delhi Fire Service had filed OA 983/1995 and have claimed the scale of Rs.380-560. This Tribunal, on 6.10.1999, had granted the pay scale of Rs.380-560 to the Radio Telephone Operators and directed:

- i) "That the applicants shall be entitled for grant of scale of pay of R.Os, now being given to R.T.Os, i.e. Rs.380-560 (pre revised), w.e.f. 1984 or from the date which the applicants were converted into the post of R.T.Os, whichever is later.
- ii) Our orders in respect of the above shall be complied within a period of three months from the date of receipt of a copy of this order.
- iii) There shall be no order as to costs."

3. The applicant was promoted to the post of Station Officer on 17.5.2002. He contends that though against the decision of this Tribunal Writ Petition is pending in the Delhi High Court but no stay has been granted. The applicant, when he came to know of the said order of this Tribunal, had filed a representation but the

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same has since been rejected. In this backdrop of facts, he claims the reliefs to which we have referred to above.

4. The application has been contested.

5. Respondents plead that since the year 1970, the communication system of Delhi Fire Services was depending on Telephone system and system was manned by Telephone Operators in the pay scale of Rs.260-400 with essential qualification as Matric pass from recognized Board/Institution. Further promotional channel for the Telephone Operators was Assistant Mobilizing Officer Grade-II in the pay scale of Rs.330-560 with eight years service as Telephone Operator in Delhi Fire Service. The next promotion from Assistant Mobilizing Officer Grade-II to Assistant Mobilizing Officer Grade-I was in the scale of Rs.380-560. The Wireless system was introduced in Delhi Fire Service in 1969. There were six types of category of Staff recruited to man the wireless communication system of Delhi Fire Service. To make the communication system more effective with the growth of Delhi and increase in number of Fire calls, the communication system was reorganized in 1983. For the purpose, services of Director of Co-ordination (Police Wireless) were taken after the detailed survey. Different posts were created. For Telephone Operator, the new hierarchy now was:

Rank	Scale in 3 <sup>rd</sup> CPC	Scale in 4 <sup>th</sup> CPC	Scale in 5 <sup>th</sup> CPC	Qualification/Experience for promotion
Telephone Operator	260-400	950-1500	3050-4590	Matric pass and knowledge in PBX



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Radio Telephone Operator	330-480	1200-1800	4000-6000	5 years service as Telephone Operator & candidate has to pass the Departmental Test Conducted by DFS.
Assistant Wireless Officer (Operational)	550-900	1640-2900	5500-9000	10 years regular service as Radio Telephone Operator/Radio Operator/Assistant Mobilizing Officer Grade-II/ Assistant Mobilizing Officer Grade-I
Wireless Officer	650-1200	2200-4000	8000-13500	5 years regular service as Assistant Wireless Officer (Operational/ Store & Planning / Maintenance)
Communication Officer	700-1300	3000-4500	10000-15200	5 years regular service as Wireless Officer

6. The Expert Committee recommended a new post of Radio Telephone Operator in the pay scale of Rs.330-480 and 96 posts of Radio Telephone Operators were proposed. Recruitment Rules for the purpose of Radio Telephone Operators alongwith other new other posts so created were in consultation with the Directorate of Co-ordination & Police Wireless & Inspector General (Communication). The same were accepted. From 1985 onwards, direct recruitments to the posts of Radio Telephone Operator were also made as per the above mentioned recruitment rules. It is not in dispute that certain similarly placed persons like the present applicant have filed OA to which we have referred to above, which was allowed but the matter is stated to be pending in the Delhi High Court.

7. We have heard the parties' counsel and have seen the relevant record.

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8. The learned counsel for the respondents in the first instance urged that the application is barred by time because it has been filed on 20.9.2004, i.e., more than one year from the cause of action having arisen. He contended that even the decision of this Tribunal, which the applicant referred to, is dated 6.10.1999.

9. Though what is being stated could be accepted to be correct, but the Supreme Court in the case of **M.R.GUPTA v. UNION OF INDIA & ORS.**, 1995 (5) SCC 628 had clearly held that the question of limitation would not be applicable in cases having the recurring cause of action. Therefore, the limitation, as contended by respondents, will not be applicable in the present case but the relief can be couched in terms that it can only be granted for a legally recoverable period.

10. As already referred to above, certain similarly situated persons had filed OA 983/1995 entiteld **Mukesh Prakash & Others v. Govt. of NCT of Delhi & Others**, which had since been allowed. We find ourselves in agreement and find no reason to take a different view.

11. However, since admittedly Civil Writ Petition against the said order of this Tribunal is pending in the Delhi High Court, the relief granted would be subject to the final outcome of that Writ Petition. It was not disputed that the Delhi High Court had not stayed the operation of the order passed by this Tribunal.

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12. All the same, the applicant would only be entitled to arrears, if any, for a period of one year before filing of the present application, if due.

13. Resultantly, we dispose of the present application holding:

iv) The applicant is entitled to the scale of Radio Telephone Operators on the same lines as in OA No.983/1995, decided on 6.10.1999.

v) The payment would be subject to the final order that may be passed by the Delhi High Court in the Civil Writ Petition referred to above.

vi) Arrears, if any, would only be for a period of one year before filing of the present application.

  
(S.A. Singh)  
Member (A)

  
(V.S. Aggarwal)  
Chairman

/NSN/