

(5)

Central Administrative Tribunal
Principal Bench, New Delhi.

O.A.1120/93

17th January 1994

Hon'ble Member Shri JP Sharma(J)

S/Shri		
1.	Shri ML Soneja S/o Sh. Jesa Ram Soneja	58 yrs
2.	" Nemi Chand Jain s/o Sh. Ram Lal Jain	62 yrs
3.	" KK Bhasker s/o KM Bhasker	60 yrs
4.	" Siri Ram s/o Ram Naresh	59½ yrs
5.	Dharam Chand Goyal s/o Kanshi Ram	62 yrs
6.	" AP Sachdeva s/o Sh. HR Sachdeva	55½ yrs
7.	" SK Agnihotri s/o Sh. BR Agnihotri	51½ yrs
8.	" Kasturi Lal s/o Sh. Sher Chand	51 yrs
9.	" BS Chauhan s/o Sh. Dulce Chand	53½ yrs
10.	" BS Patial s/o Sh. Jagat Ram	" yrs
11.	" RL Sharma s/o Sh. Baboo Ram	53½ yrs
12.	" VS Chauha s/o Bh. Buta Singh	59 yrs
13.	" Krishan Kumar III s/o Baissakhi Ram	52 yrs
14.	" SL Sawnani s/o Sh. DD Sawnani	50½ yrs
15.	" AC Malhotra s/o Sh. SR Malhotra	54 yrs
16.	" Tej Bhan s/o Chandan Dass	54 yrs
17.	" JD Sharma s/o Sh. Umrao Singh	53 yrs
18.	" RK Dureja s/o Sh. ML Dureja	52 yrs
19.	" Zail Singh s/o Sh. Gulzar Singh	53½ yrs
20.	" Ram Swarup III s/o Sh. Mool Chand	55 yrs
21.	" Laahman Dass s/o Sh. Lakha Ram	54½ yrs
22.	" Dhan Raj Jain s/o GC Jain	58 yrs
23.	" Balik Ram s/o Sh. Mangat Ram	52½ yrs
24.	" Dharam Dev s/o Sh. Jai Kishan	54½ yrs
25.	" Chanan Ram Bangar s/o Sh. Daulat Ram	54 yrs
	Applicants

The applicant 2 to 5 and 12 are retired as Telegraph

Masters. All other applicants are working as Telegraph Masters under the Chief Superintendent Central Telegraph Office, New Delhi, address for service of notices C/o Shri Sant Lal Advocate, C-21(B) New Multan Nagar, New Delhi 110056.

By Advocate Shri Sant Lal.

Versus

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| 1. The Union of India, Through the Secretary,
Ministry of Communications,
Department of Telecommunications,
Sanchar Bhawan, New Delhi - 110001. | |
| 2. The Chief General Manager, (NTR)
Department of Telecommunications
Kidwai Bhawan, New Delhi - 110050. | Respondent-1 |
| 3. The Chief Superintendent,
Central Telegraph Office,
Eastern Court, New Delhi - 110050. | Respondent-2 |
| | Respondent-3 |

By Advocate Shri George Parickan, Proxy to
Shri PP Khurana

ORDER (Oral)

Hon'ble Mr. JP Sharma, Member(J)

1. MP for joining to-gether is allowed. Shri Nemi Chand Jain, Shri KK Bhasker, Shri Siri Ram, Shri Dharam Chand Goyal and Shri VS Chawla has since retired and applicant No.1 Shri ML Soneja and applicant No.22 Shri Dhan Raj Jain has retired after filing of the application and the other applicants are still working in the post of Telegraph Masters with respondent No.3, The Chief Superintendent, Central Telegraph Office, Eastern Court, New Delhi-110050. All the applicants had a common grievance regarding fixation of their pay from the grade of Assistant Telegraph Masters(ATMs) in the pay scale of Rs.380-560 pre-revised to the grade of Telegraph Masters(TMs) in the pay scale of Rs.425-640 under the provision of FR 22C(old) FR 22 I(a)(i) new. The applicants have prayed for fixation of their pay and also prayed that the benefit of the judgement similarly situated employees by the Calcutta, Ernakulam Bench of CAT in OA 439/90 and OA/133/91 and OA 66/93 decided on 21 Apr 92, on 1 June 1991, and on 15 Jan 93 respectively be also accorded to them. The applicants have also averred that the benefit of the order issued by the respondent No.1 Min of Communications Department of Telecommunications, New Delhi dated 28 September 1992 be also accorded to them with all benefits of arrears, increments etc. The applicants have made certain representations to Respondent No.3 whereby they were told that the benefit of the judgement passed in the case of similarly situated ATMs could not be given to them as they were not parties in those cases. A copy of the letter dated 6th March 1993 addressed to applicant No.1 is taken as an example in the present case. Similar replies were also given to other above named applicants.
2. A ^{perusal} proviso of the aforesaid impugned letter 6-3-93 goes to show that the benefit of fixation of pay under FR-22 I(a)(i)

was available to those persons who are parties before the Tribunal in the claims/applicants filed by them.

3. The applicants pray for the grant of reliefs

1) To declare the impugned orders which restrict the benefit of pay fixation of ATMs on promotion to the grade of TMs under FR-22 C to the applicants only in the case of Sunilendu Chaudhry & Ors(OA-439/90) as arbitrary, discriminatory and violative of Articles 14 & 16 of the Constitution.

2) To direct the respondents to extend the benefits of the order dated 28-9-92 and the judgements of the Tribunal(Annexures A-3 to A-5) to the applicants who are similarly placed and to fix their pay from the grade of ATMs to that of T.Ms by applying the principle of FR-22C(old) and new FR-22 I(a)(i) in accordance with the law declared by the Hon'ble Tribunal in the said cases;

3) To grant all consequential benefits of arrears of pay and allowances and increments, etc;

4) To award the costs of this application; and to grant such other reliefs as this Hon'ble Tribunal deem fit in the interest of justice.

4. A notice was issued to the respondents ^{who} to file their ^{la} reply opposing the grant of reliefs and stating that the relief would be given to only to those who have obtained orders from CAT in view of the order issued by the Department of Telecommunications dated 28 Sep 1992. The respondent have also taken other stand to repel the contention of the applicants on the grounds taken for the grant of relief prayed for.

5. I have heard the learned counsels of both parties and perused the record. The counsel for the respondents does not dispute that a similar relief was allowed to ATMs when they approached the CAT for the grant of similar relief. The learned counsel for the applicant has annexed copy of the judgement of OA 439/90(A-3), another copy of the judgement of OA 133/91(A-4) and lastly a copy of the judgement of OA 66/93 decided on 15-1-93(A-5). It is the accepted proposition of law that a refusal to award judgement to similarly situated persons itself would amount to discrimination and violative of article 14 and 16 of the Constitution of India. I have gone through the aforesaid judgements which are given by

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Division Bench and as a single judge I ^{can} do not violate those decisions and also I subscribe to the same views taken by those cases of the different Bench of CAT. In view of the fact some rejected arguments need not be considered again in the present case. The arguments advanced by the learned counsel had already been repelled by reasonings given in those judgements.

6. In view of the facts and circumstances the application is allowed and the respondents are directed to extend the benefit of the order dated 28 Sep 92 issued by Ministry of Communications, Department of Telecommunications, New Delhi to fix the pay of the applicants in the grade of ATMs on their promotions to the post of Telegraph Masters by applying the principle of equality of law. The applicants are also entitled to arrears if any on account of re-fixations of pay. The respondents to comply with the above directions within three months of receipt of this order. No costs.

JP Sharma

(JP Sharma)
Member(J)

LCP