

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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OA.No.2521 of 1993

Dated New Delhi, this the Twenty Third day of September, 1994

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

Shri Bishamber Singh
Senior Caretaker, Grade-I
Office of the Chief Superintendent
Central Telegraph Office
Eastern Court, Janpath
NEW DELHI

... Applicant

By Advocate: None

VERSUS

Union of India through

1. Ministry of Communication
Department of Telecommunications
Sanchar Bhawan
NEW DELHI

2. Chief Superintendent
Central Telegraph Office
Eastern Court, Janpath
NEW DELHI-110001

3. Mahanagar Telephone Nigam Ltd.
Khurshid Lal Bhawan
Janpath
NEW DELHI

... Respondents

By Advocate: Shri V.S.R. Krishna

JUDGEMENT

Shri B. K. Singh, M(A)

This OA, under Section 19 of the Administrative Tribunal Act, 1985, has been filed by the applicant against the Order No.17-6/CS(STA)/5 dated 13.7.92 on letter No.11-14/92/DTS/Genl dated 7.7.92 from Shri P. K. Manchanda, AGM(TT), Office of the Chief General Manager(Maintenance), Northern Telecommunication Region, Kidwai Bhavan, New Delhi to the Chief

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Superintendent, C.T.O., New Delhi. The facts of the case are that the applicant is working in Mahanagar Telephone Nigam Limited(MTNL), New Delhi. He was promoted to the post of Senior Caretaker, Grade-I with effect from 25.8.84 which is in the scale of Rs.330-560. On the recommendation of the Fourth Pay Commission, the scale was revised to 1200-2040.

2. Ministry of Finance(Department of Expenditure) in their O.M. No.F.9(7)E.III/79 dated 23.1.90 (Annexure-III) fixed the norms to determine the level of the post of Caretaker and laid down the pay scale of Caretaker who was incharge of the Building with floor area measuring 13,900 Square Meters or 1.5 lakh square feet approximately as Rs.1350-30-1440-40-1800-EB-50-2200. Thereafter the Department of Telecommunications in its No.1-143/83-TE.I, dated 30.1.90 decided to fix the same norms as fixed by Ministry of Finance in O.M. dated 23.1.1990. The applicant is claiming the pay scale of Rs.1350-2200 instead of Rs.1200-2040.

3. The applicant has sought the reliefs that the respondents be directed to fix his pay with effect from 30.1.90 in the pay scale of Rs.1350-30-1440-40-1800-EB-50-2200 as sanctioned by the Ministry of Finance in Office Memorandum No.F.9(7)E.III/79 dated 23.1.90 and as adopted by the Department of Telecommunications vide No.1.143/83-TEL

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dated 30.1.90, as the applicant as Caretaker Grade-I, is in charge of the entire building of Eastern Court, the area of which exceeds 1.5 lakh square feet with all the back benefits in the circumstances of the case be passed in favour of the applicant and against the respondents with costs.

4. A notice was issued to the respondents who filed their reply and contested the application and grant of reliefs prayed for by the applicant.

5. I heard the learned counsel for the parties at great length on 1.8.94. The arguments were concluded but at the request of the learned counsel for the applicant, the case was adjourned giving opportunity to the applicant to satisfy the Tribunal on the question of limitation which had been raised by the learned counsel for the respondents, Shri V. S. R. Krishna. When the matter came up for hearing on 19.9.94, neither the applicant nor his counsel was present. Shri V.S.R. Krishna was present as counsel on behalf of the respondents. Since the arguments had been concluded and the matter had been pending for quite some time and the parties had been heard at great length, it was decided to go through the pleadings on record in order to give the judgement. Annexure -A filed by the applicant, shows his appointment by the office of the Chief Superintendent, Central Telegraph Office, New Delhi

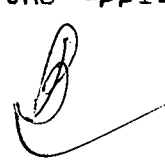
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dated 21.8.84. He was appointed as Senior Caretaker in the scale of Rs.330-560 with effect from the date of assuming charge. Annexure-8 is the Gradation List of Senior Caretaker in the pay scale Rs.330-560 as on 28.2.85 and in this list the applicant is at Sl.No.7. Annexure-I contains order No.STA-28/63-92/172 dated 3.3.92. In this the request for upgradation of the post of Caretaker from Grade-II to Grade-I had been duly considered and rejected by the competent authority. Annexure-IV gives the plinth area for grant of pay scales to the various categories of Caretakers. These were the grounds on which the learned counsel for the applicant wanted a higher scale of pay, Rs.1350-2200 in lieu of Rs.1200-2040 sanctioned to the applicant. Ministry of Communications, Department of Telecommunications accepted and adopted the O.M. of the Ministry of Finance (Department of Expenditure) dated 23.1.90 and on that basis the learned counsel for the applicant claimed that there was no classification of the various categories of Caretakers for grant of pay on the basis of the plinth area in the circular issued by the Department of Expenditure, Ministry of Finance and as such the respondents are not justified in denying this pay scale to the applicant. There was no justification for denying the benefit of a higher pay scale as prayed for by the applicant and rejected

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by the respondents in their letter No.18-4/93 NCG 2.8.93. He also argued that the applicant is already holding the post of Senior Care-Taker Grade-I and as such he is entitled to the scale of Rs.1350-2200. He also relied on the recommendation of the Fourth Pay Commission in support of his case. The respondents in their reply have argued that there is no valid grounds for claiming the pay scale of Rs.1350-2200. Secondly, the learned counsel for the respondents argued that the application is barred by limitation. It is admitted that the relief is being claimed from 30.1.90 which cannot be granted by the Tribunal. The representation of the applicant was rejected on 7.7.92 and normally the OA should have been filed within one year of 7.7.92 i.e., by 6.7.93. The application was filed on 1.12.93 and as such it is hit by limitation. Further it was argued that the order dated 2.8.93 is not addressed to the applicant and as such no grievance arises from this order to him and there is no cause of action. The learned counsel for the respondents argued that the applicant was promoted as Senior Caretaker Grade-II in the scale of Rs.330-480 with effect from 21.10.76 and not from 12.10.76 as alleged by the applicant. It was further pointed out that the applicant was only given officiating



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promotion as Caretaker with effect from 25.8.84 vide G.M.T., New Delhi letter dated 21.8.84 in the pay scale of Rs.330-560 which was revised by the Fourth Pay Commission with effect from 1.1.86 to Rs.1200-2040 and the pay of the applicant was fixed in that scale (Annexure-A). It is admitted that vide Annexure-III and Annexure-IV and in pursuance of the directions contained in the Ministry of Finance, Department of Expenditure in its MOF dated 23.1.90, it was decided to fix the following norms to determine the level of the post of Caretaker as under:-

<u>Floor are of the building</u>	<u>Pay scale of post of Caretaker</u>
1. 13,900 Sq.Meters of 1.5 lakh Sq.ft. approx. and above.	Rs.1350-30-1440-40-1800-EB-50-2200
2. Between 6500 to 13900 Sq. meters or (0.7 lakh Sq.ft.) approx.	Rs.1200-30-1560-EB-40-2040
3. Between 1900 to 6500 Sq. meters or (0.2 lakh Sq. 0.7 lakh Sq.ft.) approx.	Rs.950-20-1150-EB-25-1500

Consequently, three posts of Senior Caretaker were upgraded to the pay scale of Rs.1350-2200 against the following buildings having floor area as below:-

	<u>Covered area</u>
a. Khurshid Lal Bhawan	164345 square feet
b. Idgah	158248 -do-
c. Kidwai Bhawan	338418 -do-

The respondents have also rebutted the claim of the applicant made at Annexure V & VI that the covered area of the Eastern sq.ft. Court building is more than 1.5 lakh. While fixing area of a building, only the covered area is taken into consideration and not floor area. The gradation list as on 28.2.85 is admitted by both the parties, and it is further admitted that the applicant's name is at sl.no.7 in the gradation list.

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and promotion upto sl. no.3 has been given. The learned counsel for the respondents categorically stated that the applicant will be considered in his own turn as per gradation list at Annexure-B. He cannot take a march over his seniors. Only three have got the scale of Rs.1350-2200 and there are yet three other persons above the applicant who will be considered before the applicant. It was further pointed out that there are only three buildings having floor area of 13,900 sq.mts. or 1.5 lakh sq.ft. as per specification fixed by the Ministry of Finance MOF No.F9(7)E.III/79 dated 23.1.90 and accordingly three posts of Senior Caretakers as per their seniority in the gradation list have been upgraded and only the senior most people have been granted that pay scale. The covered area of Eastern Court building was measured by the competent authority and it was found to be only 133221 sq.ft. and as such the applicant is not entitled to get the higher pay scale which is admissible to a Caretaker handling a covered area of 1.5 lakh sq.ft.

6. After going through the record, no junior to the applicant has been found promoted and it is only the seniors to the applicant who had been put in charge of the three buildings whose covered area were 1.5 lakh sq.ft. and above. When there is no cause of action and no grievance has arisen, there is no justification for

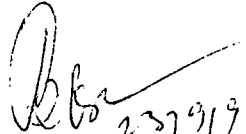
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filing the OA. The applicant could have a grievance only when a person junior to him would have been promoted or he would have been made Caretaker Grade-I of a building whose covered area was more than 1.5 lakh and he would have been denied the pay scale sought by him. Since none of these ingredients are present, on merits, the applicant has no case. The application is also hit by limitation as has been laid down by the Hon'ble Supreme Court in case of State of Punjab Vs Gurdev Singh (1991) 17 ATC 287= (1991) 4 SCC 1, Union of India Vs Ratan Chandra Samanta JT(1993) SC p.418.

7. Thus, the application is absolutely devoid of merits and is also hit by limitation and is accordingly dismissed, leaving the parties to bear their own costs.


(B.K. SINGH)
MEMBER (A)

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