

**Central Administrative Tribunal
Jaipur Bench, Jaipur**

O.A. No.15/2013

Reserved on :31.03.2021
Pronounced on:07.04.2021

**Hon'ble Mr. Dinesh Sharma, Member (A)
Hon'ble Mrs. Hina P. Shah, Member (J)**

Jai Singh Gunawat son of Shri Rajesh Kumar Gulawat aged about 40 years, resident of A-100, Tirupati Nagar, Jagatpura, Jaipur and presently working as Hindi Typist, Office of Director, Electronics Test & Development Centre (E.T.D.C), Malviya Nagar Industrial Area, Jaipur.

...Applicant.

(By Advocate: Shri C.B.Sharma)

Versus

1. Union of India, through its Secretary to the Government of India, Department of Information Technology, Ministry of Communications and Information Technology, New Delhi-110001.
2. Director General, Directorate, Standardisation, Testing & Quality Certification, Department of Information Technology, 6 C.G.O. Complex, Lodi Road, New Delhi-110003.
3. Director, Electronics Test & Development Centre (E.T.D.C), Malviya Nagar Industrial Area, Jaipur-302017. ...Respondents.

(By Advocate: Shri N.C.Goyal)

ORDER

Per: Dinesh Sharma, Member (A):

The request of the applicant in this OA is to grant him the scale of Rs 4000-6000 following the recommendations of

(2)

the 5th Pay Commission, w.e.f. the year 1996. This is on ground that the same was done in the case of similarly placed employees in the Postal Department, following decisions of the Courts/Tribunal, and in some other organizations e.g. ISRO and National Institute of Pharmaceutical Education and Research (NIPER).

2. The applicant was appointed, following a notification by Director, Electronic Test and Development Centre (ETDC), as Hindi Typist in the pre-revised scale of Rs.950-1500 in the year 1994. The applicant avers that the respondent department has wrongly fixed his pay in the scale of 3050-4590 after the 5th CPC pay revision. The respondents have rejected the claim of the applicant by their letter dated 06.11.2012 (Annexure A/1), which the applicant has prayed to quash.

3. The respondents have replied claiming that they have rejected the claim of the applicant, to revise his scale from RS. 3050-4590 to Rs. 4600-6000, since the applicant was employed, as Hindi Typist, to the pre-revised scale of 950-1500. There is no separate scale provided for Hindi Typist in the 5th CPC recommendations. Rs.3050-4590 is the corresponding scale for Rs.950-1500, to which the applicant was employed. The decision of the Postal Department cited

(3)

by the applicant is not applicable to the applicant. The applicant has not shown any rule under which his prayer can be accepted other than quoting instances of other departments. The respondents are not part of the Postal Department and it now comes under the Ministry of Electronics and Information Technology. No other Hindi Typist in the respondent department has been given higher scale than the applicant and therefore there is no violation of the right to equality. Since the 5th Pay Commission did not prescribe a separate scale for Hindi Typists the fixing of applicant's salary to the corresponding scale of his pre-revised scale is the correct implementation of the Pay Revision orders.

4. A rejoinder has been filed reiterating the applicant's claims made in the OA. The applicant has also prayed and was also allowed (following Miscellaneous Application No.353/2019) to submit further documents (decisions of various Benches of this Tribunal as Annexures A to D; copy of RTI information relating to Postal Department (Annexure E) copy of notesheets/decisions of Finance w.r.t postal department (Annexure F) and decisions of ISRO (at Annexure G)

(4)

5. The matter was heard through video conferencing on 31.03.2021. The learned counsel for the applicant argued that the applicant should also be given the same treatment as has been given to Hindi Typists in postal and other departments and as per the decisions of the other Benches of the Tribunal produced by him. The learned counsel for the respondents argued that these decisions did not apply to the Typists in the respondent department as these were taken according to the special circumstances prevailing in those departments. The fixing of applicant's pay in the scale corresponding to the scale to which the applicant had been appointed to, was the correct application of the rules relating to pay fixation on pay revision.

6. We have gone through the pleadings, perused the documents brought on record and heard the arguments of the counsels of both the parties. The crux of the matter to be decided by us is whether the applicant's pay, on 5th pay revision, should have been fixed in the scale corresponding to what he was getting before this revision or should it have been revised and fixed as was done in some other departments, following Court/Tribunal's orders, or by those department's own volition. On going through the decisions (mostly relating to the Postal Department, at AnnexuresA to D with MA No.353/2019) we find that there was a merger of

(5)

LDC cadre with that of the Postal Assistants. Hindi Typists, who were earlier getting salary equivalent to LDC, were also ordered to be treated on the same footing as Postal Assistants by the decisions of the Jodhpur Bench of this Tribunal, later confirmed by the Hon'ble High Court and followed by the Jaipur Bench of this Tribunal in the context of further grant of TBOP to these Typists. The decision of the Patna Bench of this Tribunal in **Paras Nath Gupta and Ors. Vs. Union of India and Ors.** (Annexure-D) discusses the matter of this merger (in the context of a consequential claim for TBOP) and also the other decisions of the Jodhpur and Ahmedabad Benches of this Tribunal. It is clear from this discussion that the merger, even in the Postal Department, was on the basis of a certain decision (letter dated 26.10.1987, referPara 18 of the decision at page 141 of the Paper Book), and was not universally applicable to all. This view is also supported by the RTI information dated 22.01.2020 (document produced by the applicant at Annexure E, page 147 of the Paper Book). It is clearly stated in this document: -"5th CPC:- The Hindi Typists working in the Divisional Offices who could not be merged with LDC/UDC cadres because of non-existence of later cadres in Divisional Offices have been granted only the replacement scale of RS. 3200-4900 in lieu of the pay scale of RS 975-1660." Thus, it is abundantly clear that the grant of the

(6)

scale of 4600-6000 was not an automatic result of the implementation of the 5th Pay Commission. In the Postal Department, it happened because of the peculiar circumstances of the Postal Department relating to the merger of the LDC with the Postal Assistant cadre and further decision of the Government, following this Tribunal's decision, to maintain uniformity within that department (Refer Annexure F).

7. The other RTI documents produced by the applicant are those relating to ISRO and NIPER. Even if it is to be accepted that those documents correctly show the practice adopted by them (with respect to Hindi Typists there), we cannot come to the conclusion that this is the only and the correct interpretation of the rule regarding pay revision with respect to Hindi Typists in all the departments. It is equally likely that an exception was made in favour of Hindi Typists in these organisations, taking into account their own circumstances, as was done by the Postal Department due to merger of cadres. The respondents have categorically stated that they have followed the rule of fixing pay on pay revision in the corresponding scale for all similarly placed LDCs/Typists. They are all getting the same scale of pay, which the applicant is getting. Thus, any exception made by any other department due to their special circumstances

(7)

(merger etc) or decisions of the Courts/Tribunal would relate to issues pertaining to that department only. The applicant has not been able to show us any rule under which they can be fixed on a higher scale of pay following a pay revision other than the scale corresponding to that they were getting before the revision. They have also not shown us any general decision of the Government, with respect to Hindi Typists in all departments. The copies of the office notes of the Finance Ministry, produced at Annexure-F, are w.r.t. the Postal Department only.

8. To summarise, the claim of the applicant is based on decisions of Courts/Tribunal on similar claims made by Hindi Typists in the Postal Department and on consideration of treatment given to employees of his type in some other Departments/organisations (right to equality). We find that the decisions of the Courts/Tribunals in the Postal Department were based on the fact of a merger in that department and thus cannot be made universally applicable to all departments. The claim for analogous consideration, in the absence of any rule to support, cannot be a ground for judicial intervention unless it can be shown to be a violation of the fundamental right to equality. The respondent department has not made any discrimination amongst their employees and they have implemented the pay commission

(8)

revision as per rules. Giving uniformity of treatment across departments, in matters of pay, only because the employees happen to carry similar designation or doing similar work, may, sometimes, amount to treating un-equals as equals. It may also, sometimes, result in giving equality of treatment in not following a rule. The applicant has not been able to show how he and the employees of the Postal Department or ISRO and NIPER were equally placed. Nor have they shown following what rule and under what circumstances, the employees of ISRO and NIPER were given the higher scale on 5th CPC pay revision and whether the same circumstances applied to the applicant. We are also not shown any general decision of the Government to put, all Hindi Typists, wherever they were in the scale of Rs. 950-1500 before the 5th Pay Commission revision, in the scale of Rs.4000-6000, after the revision. Thus, we see no merit in the prayer of the applicant.

9. For reasons mentioned above, the OA is dismissed. No costs.

(Hina P. Shah)
Member (J)

(Dinesh Sharma)
Member (A)

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