OA/1226/99

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 17TH DAY OF AUGUST,2000

Original Application No.1005 of 1999

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.DAYAL,MEMBER(A)

1. Daya Shanker Tripathi,a/a 53 years
Son of Late R.G.Tripathi,
Presently posted as Chief Telegraph Master(Tech), in the office of Central Telegraph Office, Kanpur.

2. Bhagirath,a/a58 years
Son of Sri Chhanga Lal presently posted as CSS in the office of Central Telegraph,Kanpur.

3. Ram Lout,a/a 57 years Son of
Sri Ram Adhar,presently posted as CSS.in the office of C.T.O Kanpur

4. R.S.Tripathi,a/a/58 years, Son of
Late Prayag Dutt, presently posted as CTM in the office of Divisional Telegraph office, Nayaganj, kanpur.

5. Maiya Din,a/a 54 years, Son of
Late Prabhu Charan, presently posted as CTM in the office of Central Telegraph Office, Kanpur.

6. B.L.Uttam,a/a 53 years Son of
Sri raghu nanda, presently posted as CSS in the office of CTO,Kanpur.

7. Abhilash Singh,a/a 57 years, Son of
Sri Mahipal Singh, presently posted as STOA(T) CTm in the office of CTO, Kanpur.

8. R.S.Verma,a/a 56 years,Son of
Late Lalmani Ji Pathak presently posted as .... in the office of CTO, Kanpur.

9. K.M.Pathak,a/a 55 years, Son of
Late R.N.Pathak, presently posted as DTO kanpur Employment exchange.

10. P.C.Tripathi, a/a 55 years, Son of
Late Avadh Narain Tripathi
Presently posted as CTM, in the office of CTO, Kanpur.

11. R.C.gupta,a/a 56 years, Son of
Sri Sunder Lal Gupta, presently posted as CTM in the office of CTO Kanpur.

...p2

12. S.L.Kushwaha,a/a 53 years, Son of Late Baijnath, presently posted as CTM in the office of CTO,Kanpur.

13. R.K.Singh,a/a 57 years, Son of Sri S.K.Singh, presently posted as CTM in the office of CTO, Kanpur.

14. R.B.Pathak, a/a 57 years Son of Late Lalmani Ji Pathak, presently posted as TM(Tech) in the office of CTO, Kanpur.

15. S.N.Tripathi, a/a 52 years,Son of Sri M.Tripathi, presently posted as Sr.TOA(Tech)CTM posted in the office of Divisional Telegraph Office, Kanpur.

16. Surendra Kumar Shukla,a/a 56 years Son of Sri Surya Kumar Shukla, posted as CTM in the office of CTO,Kanpur.

17. Jaipal singh,a/a 56years, Son of Sri hakim Singh,presently posted as CTM, in the office of CTO,Kanpur.

18. Pravin Chandra,A/a 54 years Son of Late Sri B.L.Srivastava, posted as CTM in the office of CTO,Kanpur.

19. Shiv Murat Tripathi,a/a 56 years Son of Late Guru prasad Tripathi posted as Chief Telegraph Master, in the office of CTO,Kanpur.

20. R.P.Singh,a/a 58 years, presently posted as SRTO(Tech)in the office of CTO,Kanpur.

21. M.P.Sharma,a/a 55 years, son of Late Sri Ram prasad Sharma presently posted as CTM in the office of CTO,Kanpur.

Along with

Original Application No. 912 of 1999

1. Ram Sajiwan Shukla, son of Late Shri Ram harsh shukla

2. Kanhaiya Lal, son of Lare Shri Rajju

3. Sangam lal Gupta, son of Shri Lala Ram Gupta

4. Ram milan, son of Late Shri Vishwa Nath

5. Hasan Ahmad, son of Late Shri Ali Ahmed

6. Rajendra prasad Jaiswal, son of Late Shri Sangam Lal Jaiswal

...p3

7. Riyaz Ahmad, son of Shri Abdulla
All Chief Section Supervisors in
Central Telegraph Office, Allahabad.

8. Deo Narain Dwivedi, son of Late
Shri Ram Sumer Dwivedi.

9. Mohd.Walid Ansari, son of Late Shri Mohd.
Fahim Ansari.

10. Sharma Raj yadav, son of late
ShriBhawani prasad Yadav

11. Dev Vrat Sharma, son of late
Shri Mohan Lal Sharma

12. Kashi Prasad, son of Late Shri Murari

13. Nand Lal Ram, son of Late Shri Algu Ram

14. Ram Dhani, son of Late Shri Nanhaku Lal

15. Mangala Prasad, son of Late Shri Vishnu nath

16. Udai pal, son of Shri Shiv Balak ram

Applicants no. 8 to 16 all Chief Telegraph
Masters in Central Telegraph Office,Allahabad.

Original Application No.1027/99

1. Bageshwar Singh a/a 57 years
Son of Shri Purushottam Singh

2. B.S.Yadav,a/a 57 years
Son of Late K.P.Yadav

3. Lallan Prasad Singh,a/a 58 years
Son of Shri Babu Lal,

4. Onkar Nath Pathak,a/a 56 years
Son of Lare Ram Bilan Pathak

5. N.L.Srivastava,a/a 56 years
Son of Late Banarsi Lal

6. Bashist Narayan Singh,a/a 57 years
Son of Late Lal bahadur Singh

7. S.M.Srivastava,a/a 58 years
Son of Shri B.B.Sinha

8. Mahadeo Singh,a/a 58 years
Son of Sri Ram Lakhan Singh

9. Gupteshwar Nath,a/a 54 years
Son of Late Bankey Behari Lal

10. Govind Singh,a/a/ 56 years
Son of Sri Sant Singh

11. Gulab Dass,a/a 55 years
Son of Late Shri Chhedi lal

12. Manbodh Pandiya,a/a 56 years
Son of Late Shivlakhan Pandey

..p4

13.

13. Jwala Prasad Gupta,a/a 56 years
Son of Late Mahadeo Prasad

14. M.S.Yadav,a/a 54 years
Son of Sri Vikram Singh Yadav

15. Shamim Ahmed Ansari,a/a 51 years
S/o Late Nisar Ahmed

16. Mangal Prasad.a/a 53 years
Son of Late Sohan lal

All working as Chief Telegraph Master
In Central Telegraph Office, Varanasi.

Original Application No.1072 of 1999

1. Islam beg,a/a 56 years
Son of Late Sri Huggin
CTM,Telegraph Office,Jhansi
2. Luxman Das Khatri,a/a 58 years
Son of LateRamanlal Khatri
CTM,Telegraph Office, Lalitpur
3. Than Singh,a/a 58 years
Son of Sri Ziledar Singh,presently posted as CTM,
Etawah

Original Application No.1095 of 1999

1. Magghu prasad Tewari,a/a 56 years
Son of Late Ganga Prasad Tewari
posted as Chief Section Supervisor
In the office of Telecom Divisional
Engineer,Jaunpur.

2. Radhey shyam Gupta-II,a/a 57 years
Son of Late Baij Nath gupta posted as
CTM, Telegraph Office, Jaunpur.

3. Kripa Shanker Dwivedi,a/a 56 years
Son of Sri R.P.Dwivedi presently posted
as CTM, Telegraph Office, Jaunpur.

Original Application No.1226 of 1999

1. R.P.Singh,a/a 56 years
Son of Late Ramvibhooti Singh
C.T.M, Central Telegraph Office,
Gorakhpur.

2. M.M.Tripathi,a/a 55 years
S/o Sri D.R.Mani Tripathi
posted as CTM,In C.T.O,Gorakhpur.

3. Dhruwa Ji,a/a 55 years
Son of Shri Sheopujan Tiwari
Posted as CTM,in the office of
C.T.O., Gorkhpur

4. Pyare Lal,a/a 53 years
Son of Sri Chunni Lal,
CTM,in the office of C.T.O Gorakhpur

..p5

5. C.B.Bhatt,a/a 55 years
Son of Sri R.S.Bhatt posted as CTM, in the Office of CTO,Gorakhpur.

6. Motilal,a/a 54 years
Son of Late Sri Ayodhya, posted as Chief Section Supervisor, in the office of CTO,Gorakhpur.

7. S.N.Singh, a/a/ 53 years
Son of Sri Vikram Singh posted as CSS in the office of CTO,Gorakhpur.

8. S.P.Singh, a/a 53 years
Son of Late Sri Ram Lal Singh posted as CSS in the office of CTO, Gorakhpur.

9. Mushtaque Ali, a/a 61 years(Retd)
Son of Sri lohiuddin Khan
posted as CSS,in the office of CTO
Gorakhpur

10. S.R.Yadav,a/a 57 years
Son of Sri baldeo Prasad posted as CTM, in the office of Divisional Telecom office, Lakhimpur Kheri

11. kailash Singh,a/a 55 years
Son of Late Sri Suba Singh posted as Telegraph Master(Tech) in the office of CTO,Deoria

Original Application No.1227 of 1999

1. Ram Sunder Tripathi,a/a 56 years
son of Late N.L.Tripathi

2. G.P.Awasthi, a/a 53 years
Son of Late Guru Prasad Awasthi

3. R.P.Tiwari,a/a 52 years
Son of Sri Ravindra Narain Tiwari

4. A.K.Awasthi,a/a 54 years
Son of Late R.K.Awasthi

5. S.K.Shukla,a/a 52 years
Son of Late Chandrika Prasad Shukla

6. Durga Shanker Mishra,a/a 58 years
Son of Late C.K.Mishra

7. K.K.Pandey,a/a 54 years
Son of Sri Chandra Shekhar Pandey

8. R.A.Kanojia,a/a 57 years
Son of Sri Bal Krishna Kanojia

9. Girja Shanker Yadav,a/a 56 years,
Son of Sri lala Ram

All are posted as Technical Supervisor in the office of CTO, Kanpur.

..p6

Original Application No.1228 of 1999

1. All India Telecom Employees Union Class III U.P.(East) Circle Lucknow through its Circle Secretary, P.O.Compound Kanpur.

2. Babu lal, son of Late Lala

3. J.N.Tripathi,S/o Late J.P.Tripathi

4. Smt.P.U.Mehra(Rawal)
W/o kuldeep Kumar Rawal

All posted as Chief Telecom Supervisors in the office of General Manager Telecom Department,Allahabad.

5. Smt. Sukhda Shukla

6. Smt. Asha Lata

Both posted as Chief Telecom Supervisors in the office of General Manager Telecom Department Kanpur.

7. S.P.Pandey
posted as Telecom Office Asstt. in the office of General Manager,Telecom Department, Allahabad.

8. K.P.Singh,posted as Telecom Office Asstt. in the Office of G.M, Telecom Deptt.Lucknow.

9. T.A.Siddiqui,posted as Technician in the office of G.M,Telecom Deptt.Kanpur.

10. Mohd.Idris, posted as Technician in the opffice of G.M.,Telecom Deptt, Allahabad.

Original Application No.1281 of 1999

1. Jagpati ram,a/a 54 years
Son of Late Awadhu Ram

2. Tilakdhari,a/a 58 years
Son of Late Sakaldip Yadav

Both are presently working as Chief Telegraph Master, in the office of Telecom District Manager, Azamgarh.

Original Application No.1374 of 1999

1. Suresh chandra Srivastava II
Son of Late Jagat Bahadur Srivastava
posted as Chief Telecom Supervisor

2. Shri Ram Dhir Singh, son of Late Birju Singh
posted as Chief Telecom Supervisor, in the office of SDE,E/lOB, Muthiganj, Allahabad

..p7

Original Application no.1383 of 1999

Dashrath Ram,aged about 55 years
s/o Late Shri Sarju ram
R/o village and Post,Bandi kala
Mohamdabad, Gobna, district Mau.

Original Application no.1384 of 1999

C.S.Kushwaha,aged about 50 years
S/o late Shri Sukh Ram kushwaha
R?O Village Sonwal, Post Andharipur
District Ghazipur.

Original Application No.1273 of 1999

1. Ram Uchhah Singh,a/a 59 years
   Son of Sri Brij Raj singh

2. Ram dulare Prasad, a/a 56 years
   Son of Late Siddhu Das

3. Shyam Narain,a/a 56 years
   Son of Sri tameshwar

4. Nityanand Ram,a/a 57 years
   S/o Sri Ram Nagina Ram

5. Kapildev mani Tripathi,a/a 56 years
   Son of Sri Tirathram Mani Tripathi

6. Ram Sanwar Singh, a/a 57 years
   Son of Late Basdeo Singh

7. Abdur Rahman,a/a 55 years
   Son of Late Mansoor Ali

8. Chandrabhan,a/a 57 years
   Son of Late Sri Dwarika Prasad

9. Masiuddin,a/a 57 years
   Son of Sri Sajid Khan

10. Vishwanath prasad,a/a 57 years
    Son of Late Padarath prasad

11. Ramanuj Ram yadav,a/a 54 years
    Son of Sri Ram yash yadav

12. Garjoo Ram, a/a 54 years
    Son of Late Sri Dukhi ram

13. kshiteshwar Prasad,a/a 53 years
    Son of Late Ram Samujh Shukla

14. Ram Dhani Shukla,a/a 54 years
    Son of Late Ram Samujh Shukla

15. Ramagya Singh,a/a 54 years
    Son of Sri Gaya Pd.Singh

16. Ram jiut,a/a54 years
    Son of Sri Ram lagan

...p8

17. Mohd.Hussain ,a/a 56 years
son of Late Sri Namdar Khan

18. Noor Mohd.Khan,a/a 53 years
Son of Late Haji Rahman Ali Khan

19. Dashrath Ram,a/a 53 years
Son of Late Gajadhar Ram

20. Hari krishna Gupta,a/a 57 years
Son of Sri raj Kishore Gupta

21. Dhruwa Singh,a/a 55 years
Son of Sri Ghuran Singh

22. Indrajit Dubey,a/a 54 years
Son of Late Bindeshwari Dubey

23. Ram Niwas Prasad,a/a 56 years
Son of Late Yamuna Prasad

24. Shripati Yadav,a/a 58 years
Son of Sri Ramdaur

25. Raghav Sharan Srivastava,a/a53 years
Son of Sri Lalta Pd.Lal.

26. Ambika Prasad Singh, a/a 57 years
Son of Late Thakur Singh

27. Akshaibar Pd.mishra,a/a 57 years
Son of Late Ram Bharose Mishra

28. Ram kewal prasad ,a/a 55 years
Son of Sri Churamani

All presently working as Chief Section Supervisors(Phones) In the office of General Manager Telecom District Gorakhpur.

.... Applicants

(By Advs:S/ShriH.N.Tripathi,Sudhir Agrawal,

H.S.Srivastava & A.K.Dave)

Versus

1. Union of India through the

Secretary Ministry of Telecommunication

Door Sanchar Bhawan, New Delhi.

2. The Director General,
Tele-communication, Door Sanchar
Bhawan, New Delhi.

..p9

3. Dy.Director (Personnel) in the office of Dy.Director General, Tele-Communication,Door Sanchar Bhawan New Delhi.

4. Dy.General Manager(Admn) Office of Chief General Manager Telecom (U.P.East) Circle, Lucknow.

5. The General Manager Tele-communication District Kanpur.

6. The Dy.General Manager(Admn) Office of General Manager,Tele-communication,District Kanpur.

... Respondents

(By Advs: S/Shri Amit Sthalekar & A.K.Mallick)

O R D E R(Oral)

(By Hon.Mr.Justice R.R.K.Trivedi,V.C.)

In all the aforesaid applications the questions of law and fact are similar and all the applications can be appropriately decided by a common order, against which learned counsel for the parties have no objection.

The facts giving rise to the aforesaid applications are that the applicants are serving in the Department of Tele-communication in Grade 'B'posts.. by order dated 20.4.1999(Annexure A1) Govt. of India revised the pay scales of group 'B' posts. The clause 2(i) of the aforesaid order applicable to the applicants is being reproduced hereunder:-

2(i) The officials who after getting qualified and trained enter the restructured cadre before completion of 16 years of service in pre-restructured cadre shall be placed in the pay scale indicated below on completion of 16 years of total service including that rendered in the pre-structured cadre provided that he/she has put in minimum of 4 years of service (including officiating spell) in the restructured cadre.

...p10

In pursuance of the aforesaid order dated 20.4.1999 the pay scales of the applicants were revised and they were being paid the revised pay scales. The respondents,however by the impugned orders have cancelled the aforesaid order dated 20.4.1999. The order was cancelled and it was provided that the service rendered by the applicants in pre-restructured cadre shall not be counted for computing the period of 16 years necessary for giving the revised pay scale. The respondents have also directed to recover the amounts which have been paid in excess to the applicants. Aggrieved by the aforesaid two orders they have approached the Tribunal u/s 19 of the A.T.Act.

The applicants claim that they were given ad hoc promotion to group 'B'. some of the applicants have also claim/ed that their suitability was tested by D.P.C and thereafter they were given promotion to give Group'B' in the scale of Rs.6500-10,500. In all the applications counter affidavit have been filed. We have heard Shri H.N.Tripathi ,Shri Sudhir Agrawal, Shri H.S.Srivastava and Shri A.K.Dave learned counsel appearing for the applicants and Shri Amit Sthalekar and Shri A.K.Mullick learned counsel appearing for the respondents.

The learned counsel for the applicants have submitted that the impugned orders are liable to be quashed on the short ground that before passing the aforesaid orders the applicants have not been provided any opportunity of hearing. It is submitted that once the order dated 20.4.1999 was given effect and the applicants were given the revised pay scale with the benefit accrued to them, for depriving of this benefit it was obligatory for the respondents to provide the reasonable opportunity before passing the impugned orders. Learned counsel for the applicants has placed

reliance in the case of 'Dr.Avneesh Kumar and Others Vs. Director Indian Veterinary Research Institute Bareilly and Others reported in 1999 ALJ Pg-900(DB) and has submitted that impugned orders cannot be sustained as no reason whatsoever, has been assigned for cancelling the earlier orders and such non speaking order is void and cannot be sustained on account of arbitrariness.

Learned counsel for the respondents on the other hand, submitted that the respondents were competent to revise the order fixing pay scale. The earlier order was not proper hence it was revised by subsequent orders. There is no illegality involved and applicants were not entitled for any hearing in such policy matters. In sum and substance , the case of the respondents is that the individual orders have not been passed against the applicants, orders impugned are applicable to all the employees serving in the country in group 'B' and in such cases opportunity of hearing was not practicable to provide individually to all the employees.

We have carefully considered the submissions of the learned counsel for the parties. We do not find any force in the submission of learned counsel for the respondents that opportunity of hearing could not be provided to the applicants as their number is very large and it was not practicable. In such a situation, a general notice could be given and the applicants could be heard through their representatives. It is not disputed that the earlier order revising pay scale was implemented and benefit under the same accrued to the applicants and they were receiving the revised pay scale. They could not be deprived of such benefit without adequate opportunity of hearing. The legal position is well settled that whenever an order is passed which

...p12

entails serious civil consequences against the person affected he should be given an opportunity of hearing. In the impugned orders no reasons what so ever have been indicated for canc-elling the earlier revision of pay scales. Even in counter affidavit the reasons have not been disclosed for having a second view on the matter. In such a situation the possibility of arbitrariness cannot be ruled out. The judgement of Division bench in case of Dr.Avneesh KUmar(Supra)is squarely applicable in facts of present case. In the aforesaid facts and circumstances the impugned orders cannot be sustained.

For the reasons stated above, all these OAs are allowed. The impugned orders dated 14.7.99,20.7.99 & 16.8.99(Annexure A1,A2,&A3) in OA No.1005/99, impugned order dated 20.7.99 in OA No.912/99, impugned orders dated 14.7.99,2.8.99 &11.8.99(Annexures A1 to A4) in OA No.1027/99, impugned orders dated 14.7.99,20.7.99,29.7.99 and 2.8.99 in OA 1072/99, impugned orders dated 14.7.99,20.7.99 & 31.8.99 in OA 1095/99, impugned orders dated 14.7.99, 20.7.99 & 3.8.99 in OA No.1226/99, impugned order dated 17.9.99 in OA No. 1227/99, impugned order dated 8.9.99 in OA 1228/99, impugned orders dated 14.7.99,20.7.99 & 4.10.99 in OA 1281/99, impugned order dated 16.9.99 in OA 1374/99, impugned orders dated 14.7.99, 20.7.99 & 22.9.99 in OA No.1383/99, impugned orders dated 14.7.99,20.7.99 and 17.9.99 in OA No.1384/99, impugned orders dated 8.9.99, 16.9.99 and 20.9.99 in OA No.1273/99 to the original applications are being quashed. However, it is left open to the respondents to pass a fresh order in accordanc e with law after affording adequate opportunity of hearing to the applicant. During the pendency of these applications if

..p13

any recovery has been made from the applicants, they will be entitled to get the amount back within a period of three months from the date of receipt of copy of this order. There will be no orders as to costs.

Let a copy of this order be kept in all the OAs.

TRUE COPY

Section Officer
Central Admn. Tribunal
Allahabad