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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 18TH DAY OF JULY, 2000

Original Application No. 602 of 2000

Along with 21 other OAs

CORAM:

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

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

Musaddaq Ali, S/o Shri Mustak Ali,
Phone Mechanic in the office of
Maha Prabandhak, Door Sanchar,
Bareilly.

In O.A. No. 605 of 2000

Sukh Deo prasad, Son of Sri Brij nand prasad
Phone Mechanics in the Office
of Maha Prabandhak, Door Sanchar,
Bareilly.

In OA No.609 of 2000

Sharad Kumar, Son of Late Sri Marish
Chandra, Phone Mechanics in the office
of Maha Prabandhak, Door Sanchar,
Bareilly.

In OA No.612 of 2000

Awadesh Babu, Phone Mechanic in the
Office of Maha Prabandhak, Door
Sanchar, Bareilly.

In OA No.621 of 2000

Rangi Lal, Phone Mechanic in the
Office of Maha Prabandhak, Door
Sanchar, Bareilly.

In OA No.624 of 2000

Anirudh Kumar, Phone Mechanic
in the Office of Maha Prabandhak,
Door Sanchar, Bareilly.

In OA No. 627 of 2000

Rajesh babu, Phone Mechanic in the
Office of Maha Prabandhak, Door Sanchar,
Bareilly.

In OA No.757 of 2000

Ram Sewak Mishra, Son of
Shri kali Charan Mishra, Phone
Mechanic in the office of
Maha Prabandhak, Door Sanchar,
Bareilly.

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In OA No.603 of 2000

Om Prakash, son of Sri Ram hit
Phone Mechanic in the office
of Maha Prabandhak, Door Sanchar,
Bareilly.

In OA No.606 of 2000

Tej Ram, son of Sri Devi ram
Phone Mechanic in the Office
of Maha Prabandhak,
Door Sanchar, Bareilly.

IN OA No.610 of 2000

Shri Shyam Babu, son of Phone
Mechanic, in the Office of
Maha Prabandhak, Door Sanchar,
Bareilly.

In OA No.619 of 2000

Ram Gopal, Phone Mechanic in the
Office of Maha Prabandhak, Door Sanchar,
Bareilly.

In OA No.622 of 2000

Syed Mohd. Ali, Phone Mechanic
in the office of Maha Prabandhak,
Door Sanchar, Bareilly.

In OA No.625 of 2000

Shri ram, S/o Late Sri badri
Pal, Phone Mechanic in the Office
of Maha Prabandhak, Door
Sanchar, Bareilly.

In OA No.628 of 2000

Rajendra Kumar, Mechanic in the Office of
Maha Prabandhak, Door Sanchar,
Bareilly.

In OA No.604 of 2000

Mohd. Quasim Khan, S/o Sri H.A.Khan
Phone Mechanic in the Office of
Maha Prabandhak, Door Sanchar,
Bareilly.

In OA No.607 of 2000

Rakesh Chandra, Phone Mechanic in the
Office of Maha Prabandhak, Door Sanchar,
Bareilly.

In OA No.611 of 2000

Pradeep Kumar Dev, Son of Shri A.N.Dev
Phone Mechanic in the Office of
Maha Prabandhak, Door Sanchar, Bareilly.

In OA No.620 of 2000

Shri Ram newas Sharma, S/o Sri Chhotey Lal
Phone Mechanic in the Office of
Maha Prabandhak, Door Sanchar, Bareilly.

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In OA No.623 of 2000

Shri Indra Sen, son of late Sri Khaji lal,
Phone Mechanic in the office of
Mahaprabandhak, Door Sanchar, Bareilly.

In OA No.626 of 2000

Rajesh Bahadur Saxena, Son of Raja Bahadur
Saxena, Phone Mechanic in the Office of
Maha Prabandhak, Door Sanchar, Bareilly.

In OA No.629 of 2000

Jagdish Prasad, S/o Late Sri Parmeshwar Din
Phone Mechanic in the Office of
Maha Prabandhak, Door Sanchar, Bareilly.

..... Applicants

(By Adv: Shri H.N.Tripathi)

Versus

1. Union of India, through the Secretary
Ministry of Tele-Communication,
New Delhi.
2. Department of Telecommunication, U.P.
West Circle Dehradun, through the Chief
General Manager, Telecommunication.
3. Deputy General Manager(Operation)
Telecommunication U.P. West Dehradun.
4. The General Manager Telecommunication
District Bareilly.
5. Senior Accounts Officer in the Office
of the General Manager Telecommunication
District Bareilly.

..... Respondents

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 be decided by a common order, against which learned counsel for the parties have no objection.

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The facts giving rise to the aforesaid applications are that the applicants are serving in the Department of Telecommunication as Phone Mechanics. By order dated 20.4.1999(Annexure A1) Govt. of India revised the pay scales of Phone Mechanics. 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 cadres.

Phone Mechanic - Rs4000-100-6000

Sr.TA &TT - Rs.5000-150-8000

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 orders dated 8.2.2000 and 20.3.2000 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 amount 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.

In all the applications counter affidavit have been filed except in OA No. 757/2000. We have heard Shri H.N.Tripathi learned counsel appearing for the applicants and Shri Amit Sthalekar and Shri D.S.Shukla learned counsel appearing for the respondents.

Shri Tripathi learned counsel for the applicants has submitted that impugned orders dated 8.2.2000 and 29.3.2000 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 as Phone Mechanics 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 submission of learned counsel for the respondents that opportunity of hearing could not be provided to the applicants as their number is bery 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 entails serious civil consequences against the person affected he should be

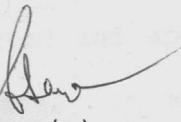
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given an opportunity of hearing. In the impugned orders no reasons what so ever have been indicated for cancelling the earlier revision of pay scales. Even in counter affidavit the reasons have not been disclosed for having a second view on the matter. In such a situation the possibility of arbitrariness cannot be ruled out. The judgment 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 8.2.2000 and 29.3.2000(Annexures A-4 & A-3) to the applications are being quashed. However, it is left open to the respondents to pass a fresh order in accordance with law after affording adequate opportunity of hearing to the applicants. During the pendency of these applications if 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.


MEMBER(A)


VICE CHAIRMAN

Dated: 18.7.2000

U.Verma.