

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,  
ALLAHABAD.

...

ORIGINAL APPLICATION NO. 406 OF 2003

this the 14th day of September, 2004.

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)  
HON'BLE MR. S.C. CHAUBE, MEMBER(A)

1. Smt. pratibha Singh, CBSO Gr.II, W/o Sri V.K. Singh.
2. J.K. Sharma, CBSO, Gr.I, S/o late R.L. Sharma.
3. S.M. Hassan, CBSO Gr.I S/o Sri S.S. Hassan.
4. K.K. Malviya, CBSO Gr.I, S/o late Sri R.K. Malviya.
5. Bhanu pratap Singh, CBSO Gr.I, S/o Sri P.N. Singh.
6. Jagdish Prasad, CBSO Gr.I, S/o Sri Puran Lal.
7. Birendra Prasad, CBSO Gr.I, S/o Sri G.R. Ram.
8. R.R. Singh, CBSO, Gr.II, S/o Sri B.N. Singh.
9. J.P. Pandey, CBSO, Gr.II, S/o Sri A.B. Pandey.
10. Ram Bhawan, CBSO, Gr.II, S/o late Jhunna.
11. Vinod Kumar, CBSO, Gr.I, S/o Sri Puran Mal.
12. Smt. Annamma Varghese, W/o Sri C.G. Varghese.
13. Gandhi Saran, CBSO Gr.I, S/o late Jawahar Lal.
14. Mrs. Neea Agarwal, CBSO Gr.II, W/o Sri G.N. Agarwal.
15. Anil Kumar Srivastava, S/o late Dharam Nath Prasad.
16. Daya Shankar, S/o Bhagwan Din.
17. Birendra Singh, S/o late Harish Chandra.

Applicants.

By Advocate : Sri G.D. Mukherjee.

Versus.

1. Union of India through the Secretary Ministry of Defence, DHQ Post Office, South Block, New Delhi.
2. Officer Incharge Signal Records, Jabalpur.
3. Comptroller & Auditor General of Defence Accounts, West Block-5 R.K. Puram through Central Command, Lucknow.

*G.D. Mukherjee*

4. Signal Officer-in-Chief, Signals Directorate, Army Headquarters  
New Delhi.
4. Station Commander, Station Headquarters Cell, New Cantt,  
Allahabad.
5. Station Commander, Station Headquarters, Varanasi.

Respondents.

By Advocate : Sri D.S. Shukla

O R D E R

BY S.C. CHAUBE, MEMBER (A)

Applicants, 17 in number, have filed this O.A. for quashing of the letters dated 24.12.2002 and 17.12.2002 of the Army Headquarters to remove dis-parity in the pay scale of CSBOS.

2. Briefly, the facts, as per the applicants, are that they are at present working as Civilian Switch Board Operators Station (in short CSBO) in the Army/Headquarters, Allahabad and Varanasi. The case of the applicants is that the nature of work and responsibilities of the applicants is technical and is identical in nature with the duties of operators in the Telephone department. They have, therefore, sought parity in the pay-scale as available for the Telephone operators in the Telecommunication department.

3. They have referred to the judgment of this Tribunal in O.A. no. 1074 of 1989 in re. Umakant & others vs. Union of India & Others. The Tribunal vide its judgment and order dated 19.11.1992 allowed the O.A. and directed the respondents to re-fix the pay of the applicants in the pay-scale of Rs.260-480, which has been revised to Rs.3200-4900/- w.e.f. the date of their appointment and pay them their arrears representing the difference between the salary they were receiving and new fixation of pay-scale. The Tribunal further directed the respondents to grant them all other privileges to which the applicants were entitled as a result of re-fixation of their pay.

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4. Thereafter one lady operator named Annamma Varghese filed a similar petition with a view to obtaining the benefit of the judgment of the Tribunal (Annexure-1) being similarly situated. O.A. no. 377 of 1995 filed by Ms. Annama Varghese was allowed vide judgment and order dated 19.3.2002 (Annexure-2). In this case also, the same benefits as were <sup>made as</sup> available to the earlier applicants, were granted to her.

5. yet, another set of CBSOS filed O.A. no. 1277/94 in re. Gandhi Saran & 14 others vs. Union of India & Others, to get the benefits of the judgment (Annexure-1) above. The Tribunal issued the directions to the respondents to re-consider the case of the applicants afresh in respect of parity and promotion with these CBSOS of the Telecommunication department, by its order dated 14.2.2002. (Annexure-3). However, this matter was referred to the Govt. of India, Ministry of Defence, who rejected the demand of the applicants vide their letter dated 24.12.2002 (Annexure-4). The present applicants nos. 1 to 14 have come against this rejection order, while applicant nos. 15 to 17 though working as CBSOS in the Station Headquarters, Allahabad, but are not getting the scale of Rs.260-480/- now Rs.3200-4900/-. Even though, they have represented, but the Army Headquarters vide their letter dated 17.12.2002 have stated that the Govt. had not agreed to accept the recommendations on the ground that it is the consistent view of the department of personnel & Training and Ministry of Finance, Govt. of India that the benefit of Court's judgment may not be extended to the applicants, is why ~~that~~ applicant nos. 15 to 17 have come through this O.A. alongwith their colleagues to get the benefit of the Court's judgment.

6. The applicants have further stated that the matter was as well as Allahabad Bench decided by Jodhpur Bench of the Tribunal, ~~But~~ on the petition filed by Western Command Civilian Employees Union before the Chandigarh Bench of the Tribunal ~~and~~ the Tribunal rejected their

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claim. Against the order of Chandigarh Bench of the Tribunal, the western Command Civilian Employees union and another filed Special Leave Petition no. 11736 of 1996 before the Hon'ble Supreme Court. The apex court vide its judgment and order dated 27.4.2000 allowed the SLP and granted the reliefs as claimed by them.

7. According to the applicant, as per the service conditions of the CBSOS working in various telephone exchanges in Allahabad and Varanasi, they initially joined as CSBO in the scale of Rs.260-480/- now Rs.3200-4800/- respectively, after completing 16 and 26 years of service, they should be given the pay-scale of Rs.4000-6000/- and Rs.5000-8000 and this came into existence on 1.12.1998 after SLP no. 11736 of 1995 in re. Western Command Civilian Employees Union & Others vs. U.O.I. & ors. was allowed by the apex court (Annexure-5). A request to implement the apex court's judgment was taken up by the Commanding Officer, Western Command Signal Regiment, giving a list of those who were entitled persons in various pay scales of CSBOS was forwarded to Army Headquarters, who took up the case with the Ministry of Defence. Accordingly, respondent no.1 issued Government sanction for re-fixation of pay in the scale of Rs.260-480/- w.e.f. 1.1.1973 and other consequential benefits as directed by the apex court. A copy of the relevant sanction order has been placed as Annexure -6 to this O.A. On the basis of apex court's judgment (supra), a list of CSBOS together with the date of appointment giving their authorised pay scales and what they were receiving now on the basis of apex court's judgment being the counterparts of the applicants of the present applicants is given below:

(i) Sri Gandhi Sharan, Alld.	4.12.1967
(ii) Sri J.K. Sharma, Alld.	19.12.1968
(iii) Sri Bhanu Pratap Singh, Alld.	1.10.1971
(iv) Sri S.W. Hassan, Alld.	19.12.1968
(v) Sri Kaushal Kishore Malviya	1.11.1968

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8. It is the case of the applicants that on the basis of the apex court's judgment (Annexure A-5), the applicants are also entitled to get the pay and allowances in the pay-scale of Rs.5000-8000/-, but at present they are kept in stated the pay-scale of Rs.4000-6000/-. They have further/that the following CSBOS posted in Allahabad Station Headquarters whose names and date(s) of appointments are given below, are presently posted in the pay-scale of Rs. 3050-4590/- have not yet been given the pay-scale of Rs. 260-480/- now Rs.3200-4900/-.

(i) Anil Kumar Srivastava	1.8.1985
(ii) Daya Shanker	8.8.1987
(iii) Birendra Singh	1.12.1995.

These applicants have also represented to the Director General Signals (4) (C), General Staff Branch, Army Headquarters, through proper channel asking for parity of pay scale with those who were already given as per the judgment of the Tribunal. However, Army Headquarters vide letter dated 17.12.2002 has intimated that the benefit of Court's judgment cannot be extended to the non-applicants as per the consistent view of the department of Personnel & Training and Ministry of Finance. All these CSBOS although they have got the initial pay scale of Rs.260-480/- now Rs.3200-4900/-, but they have not been given the pay-scale which the Government has sanctioned for the pay-scale of C.S.B.O.s i.e. Rs.5000-8000/- on completion of 16 years of service, hence they are entitled to arrears of pay and allowances on the authorised pay-scale as shown in Annexure-6 at par with the Counter parts of the Western command.

9. Respondents, on the other hand, have stated that the petitioners have prayed for different pay scale and reliefs to the different petitioners. They are, thus, not similarly situated. On this ground itself, the present petition filed by the applicant is not maintainable.

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10. According to the respondents, Telecom Operators and Switch Board Operators had only one grade prior to 25.10.1977, the date of publication of Recruitment Rules. The pay-scales were revised w.e.f. 1.1.1973 and different grades i.e. CSBOS Gr.II, Gr.I and Telecom S.B. Supervisors were created by the Ministry of Defence vide letter dated 14.4.1977. The CSBOS who were appointed on or after 1.1.1973 were placed in the pay-scale of Rs.260-400/- now Rs.3200-4900/- w.e.f. 1.1.1996. The respondents have further affirmed that the petitioners who have filed the present petition for different pay scales are getting correct pay scales as provided in the Recruitment Rules. The respondents have, however, admitted that certain CSBOS were granted higher pay-scale under the orders of the Court. However, the judgment of the Tribunal in respect of other CSBOS, who had not approached the Court, cannot be extended to all the employees who were not the parties to the said petition. They have further stated that the Government has already revised the pay-scale of Rs. 3200-4900/- to all the CSBOS grades w.e.f. 1.1.1996. The Government vide Ministry of Defence letter dated 27.4.2004 has revised the pay-scale of all the three categories of CSBOS and also granted time bound promotion to them at par with Telecom Department employees after completion of 16 and 26 years of service, which are as below:

(a) CSBE Gr.II	Rs.3200-4900
(b) CSBO Gr. I	Rs.5000-8000
(c) Tele/SB Supervisor	Rs.5500-9000
<u>Time Bound promotion:</u>	
(d) After completion of 16 years of service	Rs.5000-8000
(e) After completion of 26 years of service	Rs.5500-9000

11. The respondents have categorically stated that the applicants have failed to make-out any ground for interference by the Tribunal and the benefit of the judgment of other cases cannot be extended to the applicants in view of the fact that the pay-scale of CSBOS Gr.II have been revised

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w.e.f. 1.1.1996 and time bound promotion has also been granted after 16 and 26 years of service.

12. We have heard the learned counsel for the parties and have perused the pleadings on record.

13. We have considered the judgments of the Tribunal in O.A. No.1047/89 in re. Uma Kant & Others Vs. U.O.I. & Ors. O.A. No.377 of 1995 in Re. Annama Varghese Vs. U.O.I. & Ors. and also the decision of the Hon'ble Supreme Court in S.L.P. No.11736 of 1996 in re. Western Command Civilian Employees Union & Another Vs. U.O.I. & Ors. Learned counsel for the applicant has invited our attention to the order dated 27.04.2000 passed by Hon'ble Apex Court in Civil Appeal No.11736/96, which also relates to the Board similarly situated persons i.e. Civilian Switch/Operator employed in the Defence Telephone Exchange. Relevant part of the order is as under:-

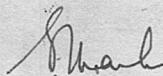
"At the time when the matter was taken up for hearing, learned Additional Solicitor General appearing for the respondents filed a copy of the letter dated 25.04.2000 sent by the Legal Cell, Headquarters Delhi informing that the orders and judgments given by the Central Administrative Tribunal, Jodhpur and Central Administrative Tribunal, Allahabad have been implemented by the respondents and on the basis of the said letter stated that the matter being identical, same relief be accorded to the appellant. In view of the aforesaid statement the appeal is allowed. The order and judgment under appeal is set aside. There shall be no order as to costs. The appellants are entitled to all consequential benefits, which they may be entitled under law."

14. The respondents have not denied the fact that the applicants are also Civilian Switch/Operators employed in Defence Telephone Exchange. Therefore, they being similarly situated are also entitled to the benefit flowing

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from the orders passed by the Central Administrative Tribunal as well as by the Apex Court referred to above. In our view, the case of the applicants in the present O.A. is fully covered by the aforesaid decisions of the Tribunal as well as Hon'ble Supreme Court. In this view of the matter letter of the Government of India, Ministry of Defence letter dated 24.12.2002 (Annexure-4) and letter dated 17.12.2002 (Annexure-8) of Army Headquarters, New Delhi are quashed and set aside. The case is remitted back to the respondents with the direction to pay the arrears of pay to the applicants under rules as per the Judgment of Central Administrative Tribunal and Hon. Supreme Court referred to above. The respondents are further directed to provide consequential benefits, which the applicants may be entitled under rules and law. This exercise shall be completed within a period of 4 months from the date of receipt of a copy of this order.

15. With the aforesaid directions, the O.A. is disposed off. We however, make no order as to costs.

  
Member (A)

  
Member (J)

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