

8

CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH:
C U T T A C K.

Original Application No.395 of 1993.

Cuttack this the 31st day of December, 1996.

Laxmidhar Mohanty @ Dutta. Applicant.

Versus.

Union of India and another. Respondents.

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not ? NO
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? NO.

Narayan
(N. SAHU) 31/12/96
MEMBER (ADMINISTRATIVE).

9

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CORAM :

THE HONOURABLE MR. N. SAHU, MEMBER (ADMINISTRATIVE).

Laxmidhar Mohanty @ Dutta aged about 41 years,
Son of Late Balunkeswar Mohanty,
At present working as Gestetner Operator,
Office of the C.P.M.G., Orissa Circle,
Bhubaneswar, District-Khurda. Applicant.

By the Advocate : : Mr. H.P.Rath and
Mr. Deepak Kumar Dey.

Versus.

1. Union of India, represented through
its Secretary, Department of Posts,
Dak Bhawan, New Delhi.

2. Chief Post Master General,
Orissa Circle, Bhubaneswar. Respondents.

By the Advocate : : Mr. Akhaya Kumar Mishra,
Addl. Standing Counsel.

O R D E R.

N. SAHU, MEMBER (ADMINISTRATIVE): The prayer in this O.A. is for a direction to the respondents to fix the applicant's pay in the scale of pay of Rs.260-350/- with effect from 20.12.83 and pay the arrears as would be due to the applicant from 20.12.83 to 31.12.85. He prays for a further direction to fix his pay from 1.1.1986 in the scale of Rs.950-1400/-. He also prays

for interest at 8% per annum on the arrears.

2. In the office of the Chief Post Master General, Orissa Circle, Bhubaneswar, there exists the post of Gestetner Operator. As per the pre-revised scale, this post carried the scale of pay of Rs.210-4-250-5-270/-. The incumbent retired on 31.5.84. The applicant who was working as a Daftary was appointed in this post on ad hoc basis on 5.6.84 in the same scale of pay of Rs.210-270/-. The revised equivalent pay scale with effect from 1.1.1986 is Rs.800-1150/-. There are two types of Gestetner Operators- Junior Gestetner Operator with pay scale of Rs.800-1150/-, and Senior Gestetner Operator with pay scale of Rs.950-1400/-. The applicant prays for this higher pay scale as he occupied the only post available.

3. The contention of Sri Akhay Kumar Mishra, learned Additional Standing Counsel is that since the pay scale attached to the post of Gestetner Operator in the office of the Chief Post Master General, Orissa Circle, respondent No.2 is Rs.800-1150/-, it must be presumed to be the post of only a Junior Gestetner Operator. Even according to the recruitment rules, a Junior Gestetner Operator has to be recruited by promotion from amongst Daftaries and Jamadars with 3 years regular service in the grade failing which, by transfer on deputation. It is only when no candidate is available on both the scores, appointment will be made by direct recruitment. The respondents deny that there is any post of Senior Gestetner Operator. As

Daftary the applicant drew a scale of Rs.200-250/- and as Gestetner Operator he was drawing Rs.210-270/-. Sri Mishra vehemently urged that the applicant was not entitled to the pay scale of Rs.260-350/- which had been revised to Rs.950-1400/-. This scale is relatable to the Senior Gestetner Operator for whom the recruitment rules are : Matriculation pass and one year experience with a certain age restriction. The mode of recruitment is by promotion failing which by transfer on deputation and failing both, by direct recruitment. In case of recruitment by promotion a Junior Gestetner with three years regular service in the grade or with a combined 6 years regular service as Junior Gestetner Operator and as Daftary. The representation of the applicant in this regard has been disposed of and a suitable reply rejecting his claim has been communicated to him on 20.8.93.

4. It is contended by Sri H.P.Rath, learned counsel for the applicant, that the applicant's grievance for drawing the pay scale of Rs.260-350/- upto 31.12.85 and Rs.950-1400/- from 1.1.86 as Gestetner Operator was not considered even though he is performing the same type of work as the Senior Gestetner Operator. Therefore, on the principle of equal pay for equal work his case should be considered and higher scale of pay be given from 20.12.83.

5. The scale of pay of Rs.800-1150/- is stated to

12

be the revised scale of pay and not a promotional scale. In the order of appointment it is mentioned that he is promoted as a Junior Gestetner Operator. Therefore, the scale of promotional post of Gestetner Operator at Rs.950-1400/- should be allowed. The applicant relies on the scale of pay of Gestetner Operator working in the office of the Central Administrative Tribunal, Cuttack at Rs.950-1400/-. The work of Gestetner Operator at Cuttack is identical with the work of Gestetner Operator in all Government offices. Therefore, to shut out the applicant from the normal pay range given to Gestetner Operators in Central Government offices is discriminatory.

6. It is next submitted that the scale of pay of Rs.210-270/- was enhanced by the Third Pay Commission to Rs.260-350/- and this should have been allowed to the applicant. The applicant had cited the orders of the Hon'ble High Court of Orissa in OJC No.1498 of 1979 relating to Patwaris working in the Line Survey Wing of DDK Project. In that case, their scale of pay was revised to Rs.210-270/- from Rs.85-110/-. The aggrieved Patwaris prayed before the High Court that similarly situated Patwaris in other departments are getting the scale of pay at Rs.260-350/-. On the ground that DDK Patwaris and the Patwaris in other departments do the identical type of work, the High Court allowed the prayer and the OJC was disposed of accordingly in favour of the petitioners. Even in the case of Lift Operators, their scale of pay

scale of pay was revised from Rs.800-1100/- to Rs.950-1500/-.

It is submitted that the Lift Operators and the Gestetner Operators belong to the same cadre and are promoted from the post of Daftary. Since all Grade-'C' employees are being provided with Rs.950-1400/- scale, non-payment of the same to the Gestetner Operator is discriminatory.

7. Sri Rath, counsel for the applicant, cited a decision of the Supreme Court reported in 1996(5)SCC273 in support of his claim.

In the affidavit filed on 18.1.94 the applicant stated that he was at present working as Gestetner Operator in the office of the Chief Post Master General, Orissa and no other person is working as Senior Gestetner Operator in the said office.

8. I have Carefully considered the submissions of the rival counsel. I am of the view that in the matter of fixation of pay scales, this Court has a very limited role to play. The applicant was working as a Daftary in the scale of pay of Rs.200-250/-. He was promoted to the post of Gestetner Operator in the scale of pay of Rs.210-270/-. In the office of the C.P.M.G., Orissa there is one post of Gestetner Operator and that post carries the scale of pay of Rs.210-270/- (pre-revised) and Rs.800-1150/- (revised). The recruitment rules for a Junior Gestetner Operator clearly stipulates that it is a general Central Service Group 'D' post. The classification is that it is a non-gazetted, non-ministerial and non-selection post. The

14

educational qualification is : Middle School standard pass with proficiency in operating and maintaining the Gestetner machine. Daftaries and Jamadars having 3 years regular service in the grade are eligible for promotion. As far as transfer on deputation is concerned, the officials of the Central Government holding the post in the pay scale of Rs.775-1025/- or equivalent posts on regular basis are eligible for consideration. With regard to Senior Gestetner Operator, it is classified under the recruitment rules as a general Central Service Grade 'C' which is a non-gazetted and non-ministerial post. In this category the pay scale has been fixed at Rs.950-1400/-. The qualification here is Matriculation and the promotion criteria are : Junior Gestetner Operator with three years regular service in the grade failing which the Junior Gestetner Operator with a combined six years regular service in the grade and as Daftary or Jamadar. Thus the qualification, classification, grading and recruitment policy for Junior Gestetner Operator and Senior Gestetner Operator are different. The applicant was a Daftary. He was promoted to the post of Junior Gestetner Operator. That was a higher scale. It is not for the Court to find out as to why or how in the office of the C.P.M.G. they have only one post of Gestetner Operator with a scale of Rs.800-1150/- which relates to a Junior Gestetner Operator. With regard to Gestetner Operator in the C.A.T. organisation on which the applicant relied very heavily, the Gestetner Operator post is a Grade 'C' post. As regards

the equality of pay for equal work, this is a very casual generalisation which cannot be accepted. Two persons may be doing the same job, but they need not get the same salary. If History is taught by a Professor and by a Lecturer, it does not mean that both the Professor and the Lecturer should get the same salary because they are teaching the same subject History. The Inspectors of C.B.I., Inspectors of Central Excise and Customs and the Inspectors of Income Tax have all along claimed that they are doing the similar type of work; but they were refused the parity with the C.B.I. Inspectors. Same assessment work is done by the Income Tax Officer, Assistant Commissioner of Income Tax and the Deputy Commissioner of Income Tax, but that does not mean that all the three should be given the same scale of pay. Nowhere in the application the applicant has stated that he has the qualification of a Senior Gestetner Operator. As the qualification and experience of a Senior Gestetner Operator are totally different from the qualification and experience of a Junior Gestetner Operator, the applicant cannot expect to draw the same salary as a Senior Gestetner Operator. That apart, he cannot equate himself with other categories like a Lift Operator. The job content is different. No two jobs are similar to each other; no two incumbents can be equated. One incumbent may be having the background different from another incumbent. Both cannot presume to be equal. A Senior Gestetner Operator with a Matriculation qualification and three years experience is different from a middle class pass for the post of Junior Gestetner Operator

16

who can be promoted from the post of Daftary grade with one year experience. It is not possible to equate all the Gestetner Operators together. The comparable case cited above relates to Patwaris whose background and work content are different from that of the applicant. In this view of the matter, this application fails and is accordingly dismissed; but the respondents may consider the applicant's case for promotion now prospectively provided he fulfils the qualification of a Senior Gestetner Operator. They may consider upgrading the post and the case of the applicant for that post keeping in view his experience in this regard.

The Original Application is dismissed.

N. SAHU
(N. SAHU) 31/12/86
MEMBER (ADMINISTRATIVE)

DJ/