

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 511 OF 1998
Cuttack, this the 28th day of September, 2000

Dipankar Basak

....Applicant

Vrs.

Union of India

Respondent

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? Yes
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No

(G.NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
28.9.2000

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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

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Dipankar Basak, aged about 28 years, son of Shyama Gopal Basak, Radio Technician, Office of the Assistant Executive Engineer (Electronics), Department of Light Houses & Light Ships, Loran "C" Station, At-Patpur, P.O-Barang, District-Cuttack

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Applicant

Advocates for applicant - M/s S.J.Nanda
A.C.Badu
H.Sahu

Vrs.

Union of India through its Director General, Ministry of Surface Transport, Department of Light Houses & Light Ships, Block X, Level-IV &V, R.K.Puram, New Delhi-110 066

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Respondent

Advocate for respondent - Mr.B.Dash
ACGSC

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SOMNATH SOM, VICE-CHAIRMAN

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In this Application the petitioner has prayed for a direction to the respondent to upgrade the post of the applicant as per recommendation of the Fifth Pay Commission.

2. The applicant's case is that he is a Diploma Holder in Engineering (Electronics) and is serving as a Radio Technician in the Department of Light Houses and Light Ships, Ministry of Surface Transport. The Director General, Ministry of Surface Transport (respondent) in his order dated 15.1.1998 (Annexure-2) upgraded the pay scale

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of Technicians from 1.1.1996. In this order Technician(General), Technician (Electrical), Technician (Electronics), Technician (Diesel) and Technician-in-charge were granted pay scale of Rs.5500-9000/- with effect from 1.1.1996, but the Radio Technicians were not given this scale. The applicant has stated that Radio Technicians work round the clock and in any station a Radio Technician must be present as per guidelines of the Department at Annexure-3. It is further stated that the Fifth Pay Commission had not made a differentiation amongst different Technicians. The relevant table from the Compilation of Fifth Pay Commission's report is at Annexure-4. As per the Recruitment Rules, qualifications of Technicians (Electronics) and Radio Technicians are the same and are interchangeable. Therefore, it is submitted that there is a gross error in order dated 15.1.1998 in not giving the above pay scale to Radio Technicians. In the context of the above the applicant has come up with the prayers referred to earlier.

3. The respondent in his counter has opposed the prayer of the applicant mainly on the ground that the job and degree of responsibility of Technicians and Radio Technicians are entirely different. So also is the promotional avenue in both cases. It is stated that for Technicians the next promotional post is Assistant Engineer which takes a long time and promotional prospects for them are restricted. In case of Radio Technician the next promotional post is Senior Radio Technician and then Assistant Engineer (Electronics). Therefore for Radio Technician there is enough promotional avenue and the Radio Technicians cannot be equated with other Technicians. It is also stated that there is no stagnation in respect of Radio

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Technicians. It is further that the Pay Commission had recommended the higher pay scale only for Technicians and not for Radio Technician. It is stated that the Fifth Pay Commission in paragraph 87.44 of their report recommended that 30% of the posts of Technician in each discipline should be placed in the replacement scale of Rs.1640-2900/-, revised to Rs.5500-9000/- on the ground of meagre promotional prospects for them. It is stated that Technicians may take ten to 20 years for promotion to the rank of Assistant Engineer. The promotional post for Technicians is Assistant Engineer in the concerned discipline line General, Electrical, Electronics, Diesel, etc. The scale of pay of Assistant Engineer is Rs.6500-10500/- and in between there is no other scale. In case of Radio Technician the next promotional post is Senior Radio Technician in the pay scale of Rs.5500-9000/- and promotional post from Senior Radio Technician is Assistant Engineer in the scale of Rs.6500-10500/-. It is further stated that the Pay Commission have specifically recommended higher pay scale for 30% of the posts of Technician because of acute stagnation which is not the case for Radio Technician. The respondent has filed Annexure-R/1 showing the position about promotion of Technicians and Radio Technicians in a tabular statement. The Recruitment Rules for Assistant Engineers in different disciplines, Senior Radio Technician and Technicians are at Annexure-R/2. In view of this, the respondent has stated that the Radio Technicians are not entitled to the higher pay scale of Rs.5500-9000/-.

4. In the rejoinder the applicant has denied the averment of the respondent that the next promotional post for Technician is Assistant Engineer. According to him, the next promotional post for the

Technicians is Foreman. He has enclosed two orders at Annexures C/2 and C/3 showing promotion of Technicians to Foreman and therefore it is stated that the promotional avenues of Technicians and Radio Technicians are the same. The applicant has also stated that while the respondent has stated that Technicians take 10 to 20 years to get promotion to the post of Assistant Engineer, Radio Technicians actually get promotion to the post of Senior Radio Technician after 10 to 25 years. By that time they become ineligible for promotion to the post of Assistant Engineer and they retire from the post of Senior Radio Technician. Moreover, the post of Senior Radio Technician is filled up 50% by direct recruitment and 50% by promotion. Thus, the promotional avenue of Radio Technician is further restricted. The applicant has also made averment regarding the nature of job and responsibilities of Radio Technicians which are more onerous than the Technicians. It is also stated that while Technicians work at administrative headquarters like Calcutta, Mumbai, Chennai, Cochin and Jamnagar, the Radio Technicians are posted at far-flung and distant stations in the country, and on the above grounds the applicant has reiterated his prayer in the rejoinder.

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5. The respondent has filed a reply to the rejoinder with regard to the averment of the applicant in his rejoinder regarding promotion of Technicians to the post of Foreman. The respondent has stated in reply that amongst different disciplines of Technicians, only Technicians (Diesel) are eligible for promotion to the post of Foreman, Diesel Technician and this promotional post again is a feeder cadre for the post of Assistant Engineer.

Rest of the averments in the reply are repetitions of earlier averments and it is not necessary to record the same.

6. We have heard Shri S.J.Nanda, the learned counsel for the petitioner and Shri B.Dash, the learned Additional Standing Counsel for the respondent and have also perused the records.

7. None of the sides has filed an extract of paragraph 87.44 of the report of the Fifth Pay Commission which deals with scale of pay for Technicians. But from the tabular statement about replacement scales filed by the applicant and not denied by the respondent it is seen that the pre-revised scale of Technician was Rs.1400-2300/-. It is to be noted that scale of pay of Technicians and Radio Technician was the same. The Fifth Pay Commission had suggested two replacement scale of Rs.4500-7000/- and Rs.5500-9000/- ^{for Technicians.} In paragraph 87.44 of their report they have taken note of stagnation in the post of Technician and have recommended 30% of the posts of Technician to be put in the higher pay scale of Rs.5500-9000/-. This is apparently a non-functional higher scale which is clear from the order dated 15.1.1998 at Annexure-2 which does not say that Technicians of different disciplines who have been granted the higher pay scale of Rs.5500-9000/- have been promoted to this scale. Their designation also remains the same. The respondent has also not stated in their counter that the work and responsibilities of Technicians who are placed in the higher pay scale of Rs.5500-9000/- are in any way different from the Technicians who are in the lower scale of Rs.4500-7000/-. All this goes to show that the above higher pay scale for the Technicians is a non-functional scale.

8. The applicant has pointed out that the Fifth Pay Commission in their report had not made any distinction between Technician and Radio Technician. Both the posts were in the pre-revised scale of Rs.1400-2300/- and the applicant has stated and the respondent has not denied that the entry qualifications are also the same so far as Radio Technician and Technician (Electronics) are concerned. All this is no doubt correct. But at the same time it has to be noted that Radio Technicians are a distinct group from Technicians. They have separate recruitment rules. Even though qualifications may be the same for Radio Technician and Technician (Electronics), the Pay Commission's recommendation does not mention about Radio Technician but mention only about Technicians. In view of this, it is difficult to accept the contention that the recommendation of the Pay Commission for upgrading 30% of the posts of Technician to a higher scale of Rs.5500-9000/- covers Radio Technician as well. The other aspect of the matter is that in case of Radio Technician, there is an intermediate post of Senior Radio Technician which is now enjoying the Fifth Pay Commission replacement scale of Rs.5500-9000/-. In case of Technicians, there is such scale; only in case of Technician (Diesel) for whom there is a higher post of Foreman (Diesel) which presumably is now in the scale of Rs.5500-9000/-. If it is taken that the Pay Commission had recommended for 30% of the posts of Radio Technician a higher scale of Rs.5500-9000/-, then they would have recommended a still higher scale for Senior Radio Technician which post is admittedly a promotional post from Radio Technician. If the contention of the applicant is accepted and higher pay scale of Rs.5500-9000/- is allowed

to 30% of the posts of Radio Technician, then inevitably a demand will come from Senior Radio Technicians to further upgrade their scale. This will be going well beyond the structure envisaged by the Pay Commission. In view of the above, we hold that the recommendation of the Pay Commission with regard to upgrading 30% of the posts of Technician to the higher scale of Rs.1640-2900/- revised to Rs.5500-9000/- is not applicable to Radio Technicians.

9. The applicant has stated that the Fifth Pay Commission had granted a higher scale to 30% of the posts of Technicians on the ground of meagre promotional facility available to them and the Radio Technicians are also facing stagnation and their promotional prospect is no better. This contention has been strongly contested by the respondent. In view of our finding above that the recommendation of the Fifth pay Commission for upgrading 30% of the posts of Technicians to a higher scale does not cover Radio Technicians, it is not necessary to go into the question whether promotional prospects for both these grades are equally meagre.

10. In the result, therefore, the Original Application is held to be without any merit and is rejected. No costs.

(G.NARASIMHAM)

MEMBER(JUDICIAL)

(SOMNATH SOM)

28.7.2000
VICE-CHAIRMAN