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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 265 of 1999
Cuttack, this the 13th day of February, 2004.

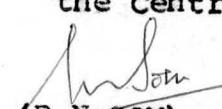
Jyotimaya Das & Ors. Applicants.

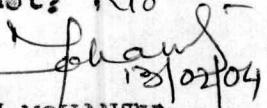
-Versus-

Union of India & Others. Respondents.

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


(B.N. SOM)
VICE-CHAIRMAN


(MANORANJAN MOHANTY)
MEMBER(JUDICIAL)

13/02/04

CNETRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

Original Application No. 265 of 1999
Cuttack, this the 13th day of February, 2004.

C O R A M:

THE HON'BLE MR.B.N.SOM, VICE-CHAIRMAN
AND
THE HON'BLE MR.M.R.MOHANTY, MEMBER(JUDL.)

....

1. Jyotirmaya Das, 38 years,
S/o.Late K.C.Das, Tandikul,PS:Bajikuda,
Jagatsinghpur.
2. Pravu Prasad Mohapatra, 39 years,
S/o.R.N.Mohapatra, Kumarang Sasan,
Banpur,PS:Khurda, Dist.Khurda.
3. Ramesh Chandra Srichandan, 42 years,
S/o.Late G.Srichanda,Kaipadar,Khurda.
4. Nabakishore Sahu, 39 years,
S/o.Antaryami Sahu,Hamamira,
Bantala,Anugul.
5. Pradipta Ranjan Baral, 38 years,
S/o.Brajakishore Baral,Paramandapur,
Po: Motto,PS:Motto, Dist.Bhadrak.
6. Ramakanta Pradhan, 37 years,
S/o.Late Kanhu Ch.Pradhan,
Rengalibeda,Kedakala,Nayakota,
Keonjhar.
7. Umesankar Routray, 41 years,
S/o.Brahamaṇa Routray,Gurujanga,
Dist.Khurda.
8. Upendranath Swain, 40 years,
S/o.Udayanath Swain,
At:Jienty,Kahal,Kakatpur,Puri.
9. Haribandhu Mallik,S/o.Madan Mallik,
Tarpada, Po: Badas, Ps: Kanas, Dist.Puri.

... Applicants.

By legal practitioner: M/s.A.K.Mishra, J.Sengupta,
D.K.Panda, P.R.J.Dash,
G.Sinha, Advocates.

-Versus-

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1. Union of India represented through its Director General of Posts, Dak Bhawan, New Delhi.
2. Union of India represented through its Secretary, Ministry of Finance, New Delhi.
3. Chief Postmaster General, Orissa Circle, Bhubaneswar.
4. Manager, Postal Printing Press, Bhubaneswar-10.

... Respondents.

By legal practitioner: Mr. U. B. Mohapatra, ASC.

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O R D E R

M R. MANO RANJAN MOHANTY, MEMBER (JUDICIAL):

Payment of higher scales of pay to the Applicants is the subject matter of challenge in this Original Application. It is the case of the Applicants that they were working in the Grade of Machineman Gr. II in the Postal Printing Press Bhubaneswar, in the scale of pay of Rs.1350-2200/- In the event of enhancement of the pay scale of the Machineman Gr. I to Rs.1400-2300/-, the scale of pay of the Machineman Gr. II was also enhanced by virtue of the order of this Tribunal passed in O.A. No.120/1991 and consequential order has been rendered by the Respondents under Annexure-2 dated 1.2.1996. The nomenclature of the post of Machineman Gr. II was also changed (alongwith other posts) as Off set machineman etc. It is the case of the Applicants that although the pay scale of Machineman Gr. I (in the scale of pay of Rs.1400-2300/-)

have been refixed as Rs.5000-8000/-, on the recommendations of the Vth Pay Commission, such benefits have not been extended in favour of the Applicants (and granting them the revised scale of pay of Rs.4,500-7,000/-) is highly illegal, arbitrary and violative of Article 39(d) of the Constitution of India. It has been submitted by the Applicants that since the proper facts had not been placed before the Pay Commission, such mistake was crept in to the report and thereby the Applicants have been made to suffer.

2. Respondents by filing their counter have stated that the Machineman Gr.II is the feeder cadre of Machineman Gr.I and the two posts ^{have} ~~never~~ merged. The off set machineman cadre being never higher than that of MM Gr.I, the latter has been given the higher scale. It is stated by the Respondents that by virtue of the recommendation of the inter-departmental Committee, the post of Machineman Gr.II was redesignated as Off-Set Machineman and was put in the scale of Rs.1400-2300/-. The erstwhile machineman Gr.II while accepting the pay scale of Rs.1400-2300/- did not show any resentment to intermingle themselves with machineman Gr.I ; nor did they ask for abolition of posts of machineman Gr.I. The Machineman Gr.II have lost their identity and were redesignated as Off-set Machineman with a scale of pay of Rs.1400-2300/-. It has been submitted by them that since it is a policy matter, as per the decisions of various courts, the Tribunal has no power to interfere in it.

They have further submitted that since the Vth pay Commission knowing fully well that the Machineman Gr.I is a promotional post of Machineman Gr.II and is a different cadre, has raised the pay scale of machineman Gr.I, the applicants are not entitled to the scale of pay as that of the Machineman Gr.I.

3. Applicants have filed a rejoinder and the Respondents have also filed a reply to the same. In the reply to the rejoinder, it has been submitted by the Respondents that as per the recommendations of the Vth Pay Commission, alongwith the scale of pay of Off Set Machineman/Machineman Gr.II, the scale of pay of Cameraman, Jr. Artist, PTS Operator (whose scale of pay were also at Rs.1400-2300/-) have been fixed at Rs.4500-7000/- As such, the Applicants are not entitled to the scale of pay as claimed by them.

4. Heard learned counsel for both sides and perused the records. It is seen that the scale of pay of the Applicants in the grade of Machineman Gr.II was revised to Rs.1400-2300/- as per the orders of the Tribunal under Annexure-2 dated 1.2.1996 w.e.f. 31.10.1989. The Vth Pay Commission considered and recommended the scales as per the existing scales attached to a post/grade. Since this revised scale of pay of Rs.1400-2300/- has been ordered only on 1.2.1996 making it effective from 31.10.

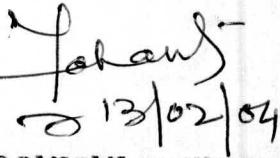
1989, necessarily, there was no occasion on the part of the Pay Commission to look into the same for any recommendation. It is an admitted fact that the scale of pay of Machineman Gr.I has been fixed at Rs.5000-8000/-, as per the recommendation of the Vth Pay Commission w.e.f. 1.1.1996. It is also seen that the Applicants have made several representations to their Authorities, as also before the anomaly committee. But it is not known as to what order has been passed by the anomaly committee in the matter. Law is well settled in a plethora of judicial pronouncements that matters regarding pay parity etc. are policy decisions and unless glaring omission or commissions are noticed, the Courts should be slow in interfering and directing in those matters. Since in the face of the records, it is seen that the deprivation of the appropriate scale of pay to the Applicants is due to revision of the scales of the Applicants, after the submission of the report of the Vth Pay Commission, with retrospective effect, it is just and proper to direct the Respondents to place the matter before the anomaly committee for consideration in the light of the discussions made above. In all fairness of things, it is also directed that while considering the cases of the applicants/Machineman Gr.II the Respondents should also take due effort to allow the Applicants to represent before the anomaly committee to put forth their grievances. On receipt of the reply from the anomaly committee, the Respondents, are hereby

directed to take appropriate action in the matter. In any event, the Respondents are directed to do the entire exercise of referring the matter to the Anomaly committee and receiving the reply etc. within a period of 120 days from the date of receipt of a copy of this order.

5. In the result, therefore, this original Application is disposed of with the aforesigned terms.
No costs.


(B.N. SOM)

VICE-CHAIRMAN


13/02/04
(MANO RANJAN MOHANTY)

MEMBER (JUDICIAL)