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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK**

OA Nos. 1182, 1199, 1200, 1201, 1202, 1203, 1204, 1205 & 1206/04

Thursday, this the 22nd day of November, 2007

C O R A M :

**HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER
HON'BLE MR. TARSEM LAL, ADMINISTRATIVE MEMBER**

1. Jyotirmaya Das,
Son of Late K.C. Das,
Village Tandikul, PS-Balikuda,
Distt. Jagatsinghpur. (OA No.1182/04)
2. Pravu Prasad Mohapatra,
S/o. R.N. Mohapatra,
Kumarang Sasan, Banpur,
PS/Distt. Khurda. (OA No. 1199/04)
3. Ramesh Chandra Srichandan,
S/o. Late G. Srichanda, Kaipadar,
Khurda, Distt. Khurda. (OA No. 1200/04)
4. Nabakishore Sahu,
S/o. Antaryami Sahu,
Hamamira, Bantala, Angul,
Dist. Angul. (OA No. 1201/04)
5. Pradipta Ranjan Baral,
S/o. Brajakishore Baral,
Paramandapur, PO/PS Motto,
Distt. Bhadrak. (OA No. 1202/04)
6. Ramakanta Pradhan,
S/o. Late Kanhu Ch. Pradhan,
Rengatbeda, Kadakala,
Nayakota, Keonjhar,
District Keonjhar. (OA No. 1203/04)
7. Umasankar Routray,
S/o. Brahamanda Routray,
Gurujanga, Distt. Khurda. (OA No. 1204/04)
8. Upendranath Swain,
S/o. Udayanath Swain,
At-Jiunty, Kahar, Kakatpur,
Dist. Puri. (OA No. 1205/04)

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9. Haribandhu Mallik,
S/o. Madan Mallik, Tarapada,
PO-Badas, PS-Kanas, Dist. Puri. (OA No. 1206/04)

(All the applicants are serving as Offset Machine man in the Office of the Manager, Postal Printing Press, Mancheswar Industrial Estate, Bhubaneswar, Dist. Khurda.

... Applicants.

(By Advocate M/s. K.C. Kanungo & S. Behera)

v e r s u s

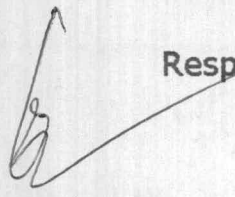
1. Secretary-Cum-Director General of Posts,
Ministry of Communications,
Dak Bhavan, Sansad Marg, New Delhi.
2. Secretary, Ministry of Finance, New Delhi.
3. Chief Postmaster General, Orissa Circle,
Orissa, Bhubaneswar, Dist. Khurda.
4. Manager, Postal Printing Press,
Mancheswar Industrial Estate,
PO- Bhubaneswar, Dist. Khurda.

... Respondents.

(By Advocate Mr. U.B. Mohapatra)

O R D E R
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

The applicants are functioning as Machineman Grade II (Office Set Machine Men) of the Postal Printing Press, coming under Respondent No. 4. The hierarchy of the cadre is as under:-



<i>Post</i>	<i>No.</i>	<i>Old Scale</i>	<i>Revised scale</i>	<i>Qualifications for DR</i>
Machineman Gr. I	3	1600-2600	5000-8000	Matric + 5 yrs working experience on off-set machine A certificate of successful completion of Apprenticeship with 2 yrs working experience in the trade.
Machineman Gr. II	9	1400 - 2300	4500-7000	Matric with science + 3 years experience of printing on off-set Printing Machine
Machine Assistant	8	1200 - 1800	4000 - 6000	xxx
Offset Machine Attendant	10	950 - 1500	3050-4590	xxx

2. In the wake of recommendation of the IV Pay Commission, the pay scale of Machineman II was revised to Rs 1350 - 2200 but later, on the filing of OA No. 120 of 1991, an Inter-departmental Committee (IDC) was constituted to study the job evaluation, standard of skill, pay scale etc., of Offset Machine man and the IDC gave its recommendations and on the government having accepted some of the recommendations, in so far as the grade of Machineman Grade II, the decision was to have the pay scale of Rs 1400 - 2300 with reclassification as "**Master Craftsman**" vide Annexures 4 and 5. Thus, as on the date when the above revision took place, both Machineman II and Machineman Grade I had equal pay scale of Rs 1400 - 2600. This development was of early 1996, when the V Pay Commission was finalizing its recommendations of pay scales. The Pay Commission was not apprised of the above development and all that the information the Pay Commission had, was only that which was prior to the above revision of pay scale. Thus, for considering the case

of Machineman, the 5th Pay Commission had before it only the pay scale of Rs 1350 - 1800 which was as per the IV pay Commission Recommendation. Obviously, the V CPC recommended revision of the pay scale of Rs 1350 - 2200 to Rs 1400 - 2300 and provided for corresponding replacement scale of Rs 4,500 - 7000 vide Annexure A-6 read with Annexure A-7. Applicants approached the Tribunal in OA No. 265 of 1999 claiming parity of pay scale at par with Machineman Grade I as an equation had already been struck between these two grades whereby identical pay scales were brought. In the absence of due furnishing of the above development, the V Pay Commission had no occasion to treat Machineman II and I in the same pedestal and thus, it recommended a lower replacement pay scale of Rs 4,500 - 7,000 to the grade of Machineman Gr. II, while that of Machineman Gr. I, it was revised to Rs 5,000 - 8000. The Tribunal, appreciating the issue involved and claim of the applicants, directed that the matter be referred to the anomaly committee and also permitted the applicants to give their representation. Annexure A-9 refers. A comprehensive representation was therefore, penned by the applicants, vide Annexure A-11 etc. The ad hoc anomaly committee furnished its report to the respondents, and the respondents, vide their order dated 6-10-2004 at Annexure A-1, rejected the claim of the applicants. The committee viewed that Machineman Gr. II function under the supervision of Machineman Gr. I; that there is basic difference in the qualifications as contained in the recruitment rules. Printing Press staff of other departments have the replacement pay

scale of Rs 4,500 - 7,000 only for the erstwhile 1400 - 2300. Incorporating the above views, the respondents having rejected the claim, the applicants have moved this Tribunal through this OA.

3. Respondents have contested the OA. According to them, there is no justification in equating the two posts and that an expert body had considered the entire case in detail.

4. The applicants have filed their rejoinder and in addition, they have, by a separate M.A. brought on records Annexure A-12 and A-13, followed by Annexure A-14, A-15, A-16 and A-17. In Annexure A-13, it was inter alia stated as under:-

*"Regarding reality and practical position of their duties, it is submitted that both offset machine-man Gr. I and offset machine man are drawing 5000 - 8000 and 4500 - 7000 respectively as per CCS(Revised) Pay Rules 1997 **and are performing the same duties.**" (Emphasis supplied).*

5. The contention of the applicants is that when admittedly the two sets of persons perform same duties is not discrimination in pay scale hostile to the equality clause of Fundamental Rights of the applicants


6. Similarly, it is the contention of the applicants that when admittedly, Machineman in the pay scale of erstwhile 1400 - 2300 were classified as **'Master Craftsman' vide Annexure A-5 as also Annexure A-15**, whatever the pay scale admissible to other Master Craftsman should be extended to them. Vide Annexure A-14, in the

Railways, Master craftsmen have been granted pay scale of Rs 5,000 – 8000. According to the applicant, classification as unskilled, semi-skilled, skilled and Master Craftsman is uniform in all the industry and it does not vary from industry to industry and here, when in the Railways, for Master Craftsman have been provided with higher pay scale, the applicants are also entitled to such a higher pay scale.

7. In OA No.12 of 2005 filed by some Machinemen in the office of the Manager, Government of India, Text Book Press, Bhubaneswar, coming under the Ministry of Urban Development an opportunity was given to the applicant to appear before the Inter Departmental Committee, set up, vide Annexure A-15.

8. Counsel for the applicant cogently and succinctly took us through various documents and submitted that this is a clear case of hostile discrimination and the OA deserves to be allowed. It has also been contended that the cadre by itself is a dying cadre and after the nine Machinemen superannuate, there will not be any replacement. Thus, in the event of the claim of the applicants being granted, the same would not in any way result in a perpetual expenditure.

9. Counsel for the respondents, however, has maintained that the question of pay parity and equation of posts is one of the Government and once the Government have decided after due deliberation, not to extend the higher pay scale to the Machineman, there is little scope of



judicial interference.

10. Arguments were heard and documents perused. The contention of the applicants is that in so far as the two posts – Machineman II and Machineman I are concerned, their pay had been equalized when the pay was Rs 1,400 – 2300 after the Inter-departmental Committee had recommended. Their duties have been held to be the same. Again, the post of Machineman Grade II has classified as Master-craftsman and Master craftsman is a supervisory post and so is the case of Machineman Grade I. Thus, when all these are comparable, there is no reason to place the applicants in a lower pay scale. These are not disputed by the respondents. The main contention of the respondents is that the post of Machineman has higher qualifications while that prescribed for Machineman Grade II are comparatively lower. The question is whether the applicants are entitled to higher pay scale of Rs 5,000 – 8000.

11. The case is one of equation of posts. As early as in 1968, what constitutes equation of posts has been dealt with in the case of **Union of India v. P.K. Roy, (1968) 2 SCR 186** and the same are as under:-

(i) the nature and duties of a post;

(ii) the responsibilities and powers exercised by the officer holding a post; the extent of territorial or other charge held or responsibilities discharged;

(iii) the minimum qualifications, if any, prescribed for

recruitment to the post;
(iv) the salary of the post;

12. Of the above, three get fulfilled, while qualification aspects do not. The question then is whether the difference in qualifications could justify lower pay scale. In a recent decision in the case of **Sohan Singh Sodhi vs Punjab State Electricity Board, Patiala**, (2007) 5 SCC 528, the Apex Court has held as under:-

"In Government of W.B v. Tarun K Roy, (2004) 1 SCC 347, a three-Judge Bench of this Court, noticing several other decisions opined that parity in the pay cannot be claimed when the educational qualification is different."

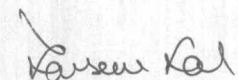
13. As the above is the recent decision, the same, when applied to this case, the respondents are right in contending that the qualifications being different between Machinemen Grade II and Grade I, they have not been placed in identical pay scale. However, what is to be seen in this case is that there are only 9 individuals who are doing the same jobs as Machinemen Grade I and these had at one point of time same pay scale, i.e. 1400 – 2300. When this scale had been allowed for Grade II in 1996, the Pay Commission could not have an opportunity to be fed with the information. Thus, the Pay Commission in 1996 recommended different pay scale. It is not known as to what data have been furnished by the Government to the Sixth Pay Commission. In case the fact of the Interdepartmental Committee having made recommendations has not been referred to the Pay Commission, there is no likelihood of the Pay Commission coming to

know the actual facts. Again, that there is similarity in functional responsibilities, as admitted vide Annexure A-13 order dated 05.07.2006 would not have been referred to the Pay Commission. These are considerations which should weigh in favour of the applicants.

14. Hence, ends of justice would be met if the respondents are directed to verify the documents to ascertain as to whether whatever information has been furnished to the VI pay Commission, had contained the fact of IDC recommendations, pay parity at one stage and same functions. If not, they have to take steps in this regard, either by taking up the case with the pay Commission at this juncture, which may not be appropriate and if not possible, the matter deserves reference to Anomalies Committee, at appropriate time. Ordered accordingly.

15. Respondents shall keep in view the above. Applicants too may keep in touch with the respondents in this regard. All the O.As are **disposed of** on the above lines.

(Dated, the 22nd November, 2007)



(TARSEM LAL)

ADMINISTRATIVE MEMBER



(Dr. K B S RAJAN)

JUDICIAL MEMBER