

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,  
J\_O\_D\_H\_P\_U\_R.

Date of Order : 06.07.2000

O.A. No. 457/1995

C.L. Sirchiwal S/O Gharshi Ram aged about 57 years,  
R/O qtr. No.III/19 Door Sanchar Colony Nagaur, at  
present employed on the post of T.O.A. Grd. III  
(known as Senior Section Supervisor) 'Group C' in  
the office of T.D.E. Nagaur (Rajasthan).

... Applicant

Vs

1. Union of India through Secretary to Government of India, Ministry of Telecommunication, Sanchar Bhawan, New Delhi.
2. Chief General Manager, Telecom Rajasthan Circle, Jaipur-302008
3. Telecom District Engineer, Nagaur.
4. Shri Ram Avtar, T.O.A. Grd. III, in the office of General Manager Telecom District Jaipur.

... Respondents

Mr. J.K. Kaushik, Counsel for the Applicant.

Mr. Vineet Mathur, Counsel for the Respondents.

CORAM :

Hon'ble Mr. A.K. Misra, Judicial Member

Hon'ble Mr. Gopal Singh, Administrative Member

O\_R\_D\_E\_R

( PER HON'BLE MR. GOPAL SINGH )

Applicant, C.L. Sirchiwal, in this application under Section 19 of the Administrative Tribunals Act, 1985 has prayed for a direction to the respondent to step up the pay of the applicant at par with his next junior

*Gopal Singh*

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Shri Ram Avtar (Respondent-4) with all consequential benefits. It has further been prayed that the impugned order dated 27.9.1995 (Annexure A/2) may be quashed and order dated 06.10.1994 (Annexure A/1) may be modified accordingly.

2. Notices were issued to the respondents and they have filed their reply.

3. We have heard the learned Counsel for the parties, and perused the records carefully.

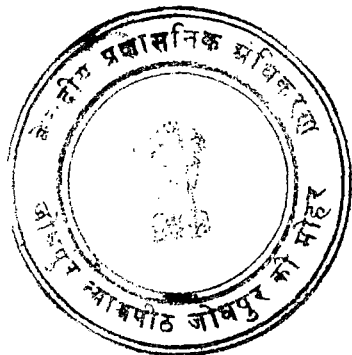
4. Disparity in pay has occurred because the applicant did not give any option for fixation of pay in terms of IVth Pay Commission scales and, therefore, he was treated as deemed to have opted the IVth Pay Commission scale with effect from 01.01.1996, whereas respondent No.4, had opted New scale w.e.f. 01.6.1987. The pay of respondent No.4 was fixed at Rs.1900/- as on 01.6.1987 in the scale of 1400-2300 while the applicant was drawing a pay of Rs.1,850/- as on 01.6.1987. Thus, the applicant, though, senior was drawing less pay than the junior (respondent-4) w.e.f. 01.6.1987.

5. It is not in dispute that the applicant is senior to respondent No.4. It is also not in dispute that the applicant was drawing higher or equal pay to respondent No.4 prior to 01.1.1986. The anomaly has arisen because of the pay fixation of respondent No.4, w.e.f. 01.6.1987 in the IVth Pay Commission scale. To deal with such an anomaly, Note 4 below Rule 7 CCS (Revised Pay) Rules, 1986 provides as under :

"NOTE 4- Where in the fixation of pay under sub-rule (1) pay of the Government servant, who, in the existing scale was drawing immediately before the 1st day

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of January, 1986 more pay than another Government servant junior to him in the same cadre, gets fixed in the revised scale at a stage lower than that of such junior, his pay shall be stepped up to the same stage in the revised scale as that of the junior."

6. In terms of the above provision the pay of the applicant deserves to be brought at par with that of respondent No.4 w.e.f. 01.6.1987. The contention of the respondents that stepping up benefit to the applicant with reference to respondent No.4 cannot be granted second time since he has already been granted the benefit in the year 1974 is not tenable. When the applicant was drawing equal or higher pay than the respondent No.4, there is no reason why the benefit of Note 4 (supra) should not be extended to him. Thus, the O.A. deserves to be allowed. Accordingly we pass the following order :

7. The Original Application is allowed.

8. Impugned order dated 27.7.1995 (Annexure A/2) is set-aside. Respondents No. 1 to 3 are directed to modify order dated 06.10.1994 (Annexure A/1) to the extent that the pay of the applicant be stepped up to Rs.1,900/- with effect from 01.6.1987 in the scale of 1400-2300 at par with his junior respondent No.4 with all consequential benefits within a period of three months from the date of receipt of a copy of this order. No costs.



( GOPAL SINGH )

Adm. Member

( A.K. MISRA )

Judl. Member

\*J\*

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section officer ( ) as per  
order dated 11-12-06

NAOM  
Section officer (Record)