CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBVAI BENCH,MUMBAI.

ORIGINAL APPLICATION NO: 617/2000, 618/2000, 619/2000, 620/2000, 621/2000 and 622/2000

THURSDAY the 2nd day of JANUARY 2003

CORAM: Hon'ble Shri S.L. Jain, - Member (J)

Hon'ble Smt. Shanta Shastry - Member (A)

1. Tarasingh Uttamsingh
R/at Flat No. C/46,
1st floor, Trimurti Apts.
Near Telephone Exchange
Ulasnagar.
...Applicant in OA 617/2000.

2. Dinanath Keshav Apte
R/at 41, Hem Bhuvan
Vacharaj Lane
Matunga, Mumbai.
...Applicant in OA 618/2000

3. Nandakumar Krushnaji Tambvekar
R/at 7, Madhav Nivas
Gokhale Road,
Mulund (E), Mumbai.
...Applicant in OA 619/2000

4. Rangpal Yadav
R/at - Room No.1
`Loknagari', MIDC Road,
Ambarnath (E).
...Applicant in OA 620/2000

5. Narayan Bhagwan Bhosale
R/at 182, Geeta Niwas
Behind Najbuddin Chawl,
Karjat (W) Raigad.
...Applicant in OA 621/2000

6. Bhagwandas P. Agarwal
R/at 23, Snehbandh,
Near Gurukul Soc.,
Pach-Pakhadi, Thane (W).
Copy of 'A' Set
...Applicant in OA 622/2000

By Advocate Shri J.M. Tanpure.

V/s

1. The Union of India through
The Secretary,
Ministry of Railways,
Rail Bhavan, New Delhi.

2. The Divisional Railway Manager
D.R.M.'s Office,
Mumbai C.S.T.
...Respondents.

By Advocate Shri S.C. Dhawan.

ORDER (ORAL)

{Per S.L. Jain, Member (J)}

OAs 617/2000, 618/2000, 619/2000, 620/2000, 621/2000 and 621/2000 are heard together with the consent of the parties, as they involve one and the same question of facts and law.

2. The applicants in the above referred OAs seek declaration that placing them in the lower grade / scale of Rs. 950 - 1500 from the grade / scale of Rs. 1400 - 2300 is illegal, unconstitutional and they are entitled to be placed in the scale of Rs. 1400 - 2300 (before their pay fixation due to Vth Pay Commission in the scale of Rs. 5000 - 8000). A further declaration is sought that they are entitled to arrears from 1.4.1999 in the old scale of Rs. 1400 - 2300 treating their pay as Rs. 6200/- instead of Rs. 4670/- alongwith interest of 18% thereon.

3. The applicants in OA 617/2000 and 621/2000 were working as Head Signaller in the grade of Rs. 1400 - 2300 in Telegraph Office Bombay VT. As they were declared surplus, they were allowed option and the applicants have opted for the post of Junior TC. The applicants in OA 617/2000 and 621/2000 were promoted as Senior TC, but on account of their own problem they were retained as Junior TC.

4. The facts of other OAs are similar to the above referred OAs regarding options exercised by the applicants.

5. The grievance of the applicants is that they ought to have been granted the pay protection. Suffice to state that instructions regarding transfer from higher to lower post cannot be equated when the applicants were declared surplus andallowed option. In case the applicants did not opt for any post they have to go to home. The respondents were very fairly allowed the applicants option for different posts amongst which some of the posts were also of the same scale in the applicants were working. It is the action of the applicant by which they have selected the post which was carrying lower scale.

6. The learned counsel for the respondents relied on Exhibit R - 3 by which the applicants were appointed and on perusal of the same it is clear that they were appointed in the scale of Rs. 950 - 1500. He further relied on Exhibit R -IV. We have perused para 2 and 3 of the same which has been relied by the parties. It is not a case where the applicants were drawing pay which was at the maximum of the sale. Para 3 specifically says that pay protection shall not be extended where despite availablity of a post in a matching pay scale, the person is redeployed / readjusted in the post carrying a lower pay scale at his own request. The applicants have opted for the post which was carrying pay scale of Rs. 950 - 1500, now the applicants cannot make any grievance for the same.

7. The learned counsel for the applicant relied on 1987 ILJ Abid Hussain and others etc. V/s Union of India and others for the proposition that equality before law deserves to be

maintained. He relied on a letter of Western Railway dated 9.1.1997. We have perused the said letter and we are unable to agree with the counsel for the applicants.

8. The learned counsel for the respondents relied on an order passed in OA 1078/98 by this Bench on 4.12.2002 and argued that the case is similar one and now the matter is not resintigra We have perused the said order and we find that the applicants are not able to make out any new ground for awarding the relief asked for and the decision in OA 1078 applies to the present case.

9. In the result the OAs are liable to be dismised and are dismissed accordingly with no order as to costs.

(Smt. Shanta Shastry)
Member(A)

(S.L.Jain)
Member(J)

NS

24/1/03
der/Judgement dispatched
to Applicant(s)
on 23/1/03