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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT  
HYDERABAD

~~TRANSFERRED~~/ORIGINAL APPLICATION NO. 203 of 1989

DATE OF ORDER: 20th July, 1990

BETWEEN:

Mr. B. Rasool Sahab  
Mr. P. Innaiah Reddy

APPLICANT(S)

Vs.

1. Union of India rep. by its Secretary, RESPONDENT(S)  
Min. of Communications, Dept. of Telecom.,  
New Delhi and 3 others

FOR APPLICANT(S): Mr. G.V.L. Narasimha Rao, Advocate

FOR RESPONDENT(S): Mr. N. Bhaskar Rao, Addl. CGSC

CORAM: Hon'ble Shri B.N. Jayasimha, Vice Chairman  
Hon'ble Shri D. Surya Rao, Member (Judl.)

1. Whether Reporters of local papers may be allowed to see the Judgment? *no*
2. To be referred to the Reporter or not? *no*
3. Whether their Lordships wish to see the fair copy of the Judgment? *no*
4. Whether it needs to be circulated to other Bench of the Tribunal? *no*
5. Remarks of Vice-Chairman on columns 1, 2, 4 (to be submitted to Hon'ble Vice-Chairman where he is not on the Bench)

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JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE  
SHRI B.N.JAYASIMHA, VICE CHAIRMAN

The applicants herein were working as Works Assistants in the Posts & Telegraphs (Civil Wing) of Telecom Department. They state that earlier they were appointed as Works Assistants in the Central Public Works Department and consequent on formation of the Posts & Telegraphs Civil Wing (Telecom), they were transferred and absorbed as Works Assistants in the Posts & Telegraphs Civil Wing. The pay scale of Works Assistant both in the Posts & Telegraphs Civil Wing and in the CPWD was Rs.260-430. As a result of demand made by the staff side of the Departmental Council (J.C.M.), the pay scale of Works Assistant in the P&T Civil Wing was raised to Rs.330-480 as a result of an Award of Board of Arbitration. This beneficial scale was given to them with effect from 22.9.1979 vide letter No.24/7/78-ECV/EW.4 Govt. of India, Ministry of Works & Housing, dated 29.10.1983. On the analogy of the above order, <sup>a</sup>request was received from the Ministry of Finance for extending the benefits to the Works Assistants in other Ministries/Departments. Thereupon, the Government of India issued orders viz., Office Memo No.5(2)E-III/85 dated 6.5.1985 whereby the President of India was pleased to direct that the pay scale of Works Assistants in the Ministries/Departments of Govt. of India other than the CPWD may also be revised to Rs.330-480 with effect from 6.5.1985. The benefit of this order was extended to the applicants through letter No. 12-1/84-CSE dated 20.8.1985. Accordingly, the pay of the applicants was revised and fixed with effect from 6.5.1985. The applicants state that they made several representations to the President of India through proper channel requesting

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that payment of arrears may be given effect from 22.9.1979 as ordered by the Ministry of <sup>Works and</sup> Housing in its order dated 29.10.1983. But the Ministry of Finance by order dated 6.5.1985 restricted the scale of pay of Works Assistants in P&T Civil Wing with effect from 6.5.1985. The applicants contend that the work involved in the P&T Civil Wing and in the CPWD is identical and there cannot be any discrimination against the applicants. As no reply has been received to the representations made on 5.5.1988, they filed the present application in February 1989. They seek a declaration that they are entitled to revised pay scale of Rs.330-480 with effect from 22.9.1979 and for a direction to the respondents to fix the pay of the applicants under F.R. 22(a)(ii) read with Audit Instructions (1) thereunder in the revised scale of Rs.330-480 from 22.9.1979. They also prayed for payment of consequential arrears of pay and allowances.

2. On behalf of the respondents, a counter has been filed stating that the Works Assistants in the P&T Civil Wing represented to the President of India for giving them benefit of revised pay scale of Rs.330-480 with effect from 22.9.1979. After examination of the case, the Ministry of Finance rejected the request of Works Assistants in the P&T Civil Wing. It was clarified that they were entitled to the benefit of revised pay scale only with effect from 6.5.1985. In regard to the plea of discrimination, it is stated that the Award of Board of Arbitration is directly applicable to Works Assistants of CPWD, that the job content may vary from Department to Department and that keeping in view all the relevant factors, the Works Assistants of P&T Civil Wing were extended with the benefit prospectively. It is, therefore, stated that they are not entitled to the benefit of revised pay scale w.e.f. 22.9.79.

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3. We have heard the arguments of Shri K. Nagaraj, Advocate appearing for Shri G.V.L. Narasimha Rao on behalf of the applicants and Shri Naram Bhaskar Rao, Addl. CGSC on behalf of the respondents. Shri Bhaskar Rao has contended that the application is belated and is liable to be dismissed for non compliance of Section 21 of the Administrative Tribunals Act, 1985. He contends that the order dated 6.5.1985 under which the benefit of revised pay scale has been given prospectively is sought to be questioned in the present application which was filed only in February 1989. Shri Nagaraj, on behalf of the applicants who have also filed a petition for condonation of delay, urges that the delay if any should be condoned in the case of 'lower echelon' employees. In support of his contention, he relies on a decision of the Supreme Court in the case of "G.P. Doval Vs. Chief Secretary, Government of Uttar Pradesh and others (AIR 1984 SC 1529)" wherein the Supreme Court refused to throw out the petition on delay despite representation having been filed 12 years after the cause of action having arisen. We are of the view that the ratio in Doval's case is applicable to the facts of the case. Apart from this, we also notice that the respondents have stated in the counter that the representation of the Works Assistants viz., the applicants was considered by the Ministry of Finance who rejected the representation made on 5.5.1988. In that event, it cannot be said that there is any delay in the filing of this application. Hence, the contention of the learned Standing Counsel for the Respondents that the application is liable to be dismissed on the ground of delay is rejected.

4. On the merits of the case, it is difficult to accept that the job content of the Works Assistants in P&T Civil Wing is different from that of the CPWD. The

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fact that the benefit has been extended to P&T employees itself is an indication that the work of Works Assistants in the CPWD and P&T Civil Wing is one and the same. The order dated 6.5.1985 extending new scale of pay itself stipulates that the Works Assistants in the Departments other than CPWD can be given the benefit provided their recruitment qualifications (including experience etc.,) are similar to those prescribed in the case of Works Assistants in the CPWD. This by itself repels the contention of the respondents, that the job content is different or the qualifications prescribed are different.

5. In the result, the applicants succeed. The order as to costs.

(Dictated in the open Court).

*B.N. Jayasimha*  
(B.N. JAYASIMHA)  
Vice Chairman

*D. Surya Rao*  
(D. SURYA RAO)  
Member (Judl.)

Dated: 20th July, 1990.

*D. S. R. Rao*  
DEPUTY REGISTRAR (JUDL)

To

1. The Secretary, Union of India, Ministry of Communications, Dept., of Telecommunications, New Delhi.
2. The Secretary to Government of India, Ministry of Finance (Department of Expenditure), New Delhi.
3. The Director General (B.W) Telecommunications, New Delhi.
4. The Executive Engineer, Telecom, Civil Division No.II, Indian Posts & Tel.Department, (Civil Wing) Hyderabad - 27 A.P.,
5. One copy to Mr.G.v.L.Narasimha Rao, 2-1-566/B/1, Nallakunta, Hyd.44
6. One copy to Mr.N.Bhaskara Rao, Addl.CGSC.CAT.Hyd.Bench.
7. One spare copy.

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COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. B. N. JAYASIMHA : V.C.

AND

THE HON'BLE MR. D. SURYA RAO : MEMBER (J)

AND

THE HON'BLE MR. J. NARASIMHA MURTY : M (J)

AND

THE HON'BLE MR. R. BALASUBRAMANIAN : M (A)

DATE: 20/7/90

ORDER/JUDGMENT:

M.A./ R.A./ C.A./ No.

in

T.A. No.

W.P. No.

O.A. No. 203/89

Admitted and Interim directions issued

Allowed. ✓

Dismissed for Default.

Dismissed as withdrawn.

Dismissed.

Disposed of with direction.

M.A. Ordered/Rejected.

No order as to costs

