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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.445 of 1989

DATE OF JUDGMENT: 16th OCTOBER, 1992

Between:

1. Mr. Rafiuddin Khan
2. Mr. Mohd. Ejaz Ahmed
3. Mr. Mohd. Fakhruddin
4. Mr. K. Venkateswara Rao
5. Mr. M. Vijaya Kumar
6. Mr. B. Rajaiah
7. Mrs. M. S. Chandra

Applicants

AND

Union of India represented by

1. The Secretary to Govt. &
Director General,
Department of Telecom,
New Delhi.
2. The Chief General Manager,
Telecom, A.P.Circle,
Hyderabad-1.

Respondents

COUNSEL FOR THE APPLICANTS: Mr. KSR Anjaneyulu

COUNSEL FOR THE RESPONDENTS: Mr. N. R. Devaraj, Sr. CGSC

CORAM:

Hon'ble Shri R. Balasubramanian, Member (Admn.)

Hon'ble Shri C. J. Roy, Member (Judl.)

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JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI C.J.ROY, MEMBER (JUDL.)

This is an application filed by the applicants herein under Section 19 of the Administrative Tribunals Act, 1985, seeking a direction to the respondents to give the applicants the scale of Pay of Rs.425-700 with arrears of pay from the date of appointment/promotion as H.G.Draftsman on or after 16.11.78 on par with the Judgement of the Central Administrative Tribunal, Guwahati Bench and pass such other order or orders as may deem fit and proper in the circumstances of the case.

2. The facts giving rise to this OA in brief are as follows:

The applicants herein are working as H.G.Draftsman in the AP Telecom Circle, Hyderabad. Five of the applicants were directly appointed as HG Draftsman and three of them are promotees from Lower Grade Draftsman to Higher Grade Draftsman. The applicants are working in the pay scale of Rs.330-560/- at present in the post of Higher Grade Draughtsmen.

3. It is submitted by the applicants that the Third Pay Commission recommended that the pay scales of the Draughtsman should be higher on the basis of qualifications and hence, the Commission recommended Rs.425-700/- for the H.G.Draughtsman(Grade-II). It is also submitted by the applicants that the Third Pay Commission in its report had observed that the categories of the staff employed in P&T Engineering were the same as in the CPWD with similar conditions of recruitment and duties and hence, recommended that they may be placed in the pay scales recommended for the corresponding categories in the CPWD. CPWD implemented the third Pay Commissions' recommendations and arrears were allowed with effect from 16.11.78.

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4. It is the grievance of the applicants that though they are similarly placed in all respects with the Draughtsmen working in other Central Govt. Departments including CPWD, they have not been given the benefit of the revised scale of Rs.425-700/- in their present post. The applicants also submit that they have collectively, represented ~~in~~ the matter to the concerned authorities but in vain.

5. The applicants rely on the Judgement passed by the Central Administrative Tribunal, Guwahati Bench in GC Nos.161,162,185 and 186 of 1987, moved by some officials of similar rank on the same issue.

6. The Central Administrative Tribunal in its Judgement dated 3.8.88 has held as follows:

"On the ~~xxxxxxxxxx~~ conspectus of the facts and circumstances and for the reasons stated above, we do not find any justification in denying the fixation of pay in terms of the Third Central Pay Commission in favour of the applicants. Accordingly, it is held that the applicants are entitled to the scale of pay in terms of the Third Central Pay Commission as have been given to the corresponding categories of employees in the Central Public Works Department w.e.f. August, 22,1973. it is further directed that the applicants may be notionally fixed w.e.f. 22.8.73 in the revised scale and arrears, if any allowed with effect from November,16,1978.

In the above terms, the applications are allowed, but in the facts and circumstances of the case, I pass no order as to costs."

7. It is the case of the applicants that the action of the respondents in not giving them the revised scale of pay of Rs.425-700/- w.e.f. 16.11.78 along with arrears is arbitrary and hence, the present OA for the relief as indicated above.

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8. No counter is filed by the respondents inspite of sufficient opportunities given to them for filing counter.

9. We have heard the learned counsel for the applicants, Mr. KSR Anjaneyulu and the learned Senior Standing Counsel for the Respondents, Mr. N.R. Devaraj. We have also perused the Judgment referred to by the applicants, viz., Judgment in G.C.Nos. 161, 162, 185 and 1986 of 1987 delivered by the Hon'ble Central Administrative Tribunal, Guwahati Bench and also the Judgment of the Delhi High Court in W.P.No.911 of 1981.

10. The learned Senior Standing Counsel for the Respondents states that an SLP is being filed before the Hon'ble Supreme Court against the Judgment of the Full Bench in Application No. 677/87 of the Bangalore Bench which Judgment is similar to that of the Judgments cited supra in Para 9 above.

11. Since no SLP is filed as on today and no directions/orders are in existence from the Hon'ble Supreme Court, we have decided to proceed with the case and dispose of the O.A.

12. The applicants claim to direct the respondents to give them the revised scale of pay of Rs.425-700 with arrears

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of pay with effect from the date of appointment/date of promotion as H.G.Draughtsmen on or after 16.11.1978 on the principle laid down in the Judgement of the Guwahati Bench of the Central Administrative Tribunal, for the similarly placed persons in the same Department.

13. Considering the claim of the applicants which is similar to that of the claim of the applicants before us, the Madras Bench of the Central Administrative Tribunal, following the Full Bench decision of the Bangalore Bench in O.A.No.677/87, allowed the applications before them directing "notional fixation of pay with effect from 22.8.1973 or with reference to their dates of appointment to the grade, whichever is later". They also directed that, "while doing so, we make it clear that arrears of pay will be admissible from 16.11.1978 or their date of appointment to the grade, whichever is later".

14. Under these circumstances we want to follow the directions given by two other benches, Guwahati and Madras, in so far as the notional date of pay fixation viz: 22.8.1973 is concerned. But, as regards arrears, the applicants had not approached the court in time and we, therefore, want to restrict it only to one year prior to the date of admission of this O.A. viz: 13.6.1988.

15. We, therefore direct the respondents to fix notionally the pay of the applicants herein with effect from 22.8.1973 or with reference to their dates of appointment to the grade, whichever is later. In so far as arrears are concerned, arrears will be paid admissible only from 13.6.1988 as stated supra.

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16. With the above directions we dispose of the application with no order as to costs.

R.Balasubramanian

(R.Balasubramanian)
Member(A).

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(C.J.Roy)
Member(J).

Dated: 16 October, 1992.

8/9/1992
Deputy Registrar (Judl.)

Copy to:-

1. The Secretary to Govt., & Director General, Department of Telecom, Union of India, New Delhi.
2. The Chief General Manager, Telecom, A.P. Circle, Hyd-1.
3. One copy to Sri. K.S.R.Anjaneyulu, advocate, CAT, Hyd.
4. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
5. One spare copy.
6. One copy to D.R.(J)

Rsm/-

6th signed
Rsm/-