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THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 482/94

Date of Order: 21-9-95.

Between:

L.Nageswar Rao.

... Applicant

and

1. The Secretary, Ministry of Home Affairs,
Govt. of India, Central Secretariat,
New Delhi.
2. The Secretary, Ministry of Finance,
Govt. of India, Central Secretariat, New Delhi.
3. The Secretary, Ministry of Personnel
Public Grievances & Pensions (Dept. of
Personnel and Training) Govt. of India,
Central Secretariat, New Delhi.
4. The Registrar General, India,
2/A, Mansingh Road, New Delhi-11.
5. The Deputy Director of Census Operations,
A.P.Pioneer House, Somajiguda, Hyderabad-482.

Respondents.

For the Applicant :- Mr. L.Nageswar Rao, ~~Advocate~~ (P. in f.)

For the Respondents: Mr. N.R. Devraj,
Sr./~~Adv.~~ CGSC

CORAM:

THE HON'BLE MR.JUSTICE V.NEELADRI RAO : VICE-CHAIRMAN

THE HON'BLE MR.RARANGARAJAN : MEMBER(ADMN)



O.A.No.482/94

JUDGEMENT

(as per Shri Justice V.Neeladri Rao, Vice-Chairman)

This O.A. was filed praying for a declaration that the inaction of the respondents in not extending the grading promotions like Date Entry Operators Grade ~~A, B~~, C, D & E on par with similarly situated persons getting grading promotions in National Informatic Centre (N.I.C.), Government of India and in the Railways, to the applicant herein, is illegal, arbitrary and violative of Articles 14 and 16 of the Constitution of India and for a consequential direction to the respondents to extend the benefit as per recommendation of Dr.Seshagiri Committee report and orders in No.F.7(1)/IC/86(44) dated 11-9-1989 passed by the Ministry of Finance, Department of Expenditure, Implementation Cell and the order No.AB-14017/75-89-Estt.RR. dated 12-2-90 passed by the Ministry of Personnel, Public Grievance and Pensions, Department of Personnel & Training by giving grading promotions to the applicant with retrospective effect.

2. The applicant joined as Junior Stenographer in the payscale of Rs.330-560 on 10-4-1981 in the Office of the Deputy Director of Census Operations, Hyderabad (R-5). On 5-6-82 he was posted as Operator as an in-service candidate in the same payscale. That pay was revised to Rs.1200-2040 with effect from 1-1-86 pursuant to the recommendations of the IV Pay Commission.

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3. A committee under the chairmanship of Dr.N. Seshagiri, Additional Secretary, Department of Electronics was constituted as suggested by the IV Pay Commission to examine and suggest re-organisation of existing electronic data processing (EDP) posts and prescribe uniform pay-scales and designations in consultation with the Department of Personnel. That committee recommended A to E grades for the post of Data Entry Operators with the following pay-scales, and the ratio amongst the grades.

<u>Grade</u>	<u>Payscale</u>	<u>Ratio</u>
A	Rs. 1350-2200	55%
B	Rs. 1400-2300	30%
C	Rs. 1600-2660	10%
D	Rs. 2000-3200	5%
E	Rs. 2375-3500	2% of the total posts

It also recommended that the minimum educational qualification for Grades A, B, C, D & E is Degree, but it suggested creation of 'A.A' grade in the pay-scale of Rs.1150-1500 as a transmission for the non-graduate staff and a pay-scale of Rs.1320-2040 was recommended if the replacement is higher than Rs.1150 without special pay (vide Annexure-I).

4. After consideration of the recommendations of Seshagiri Committee, the Ministry of Finance issued O.M. dated 11-9-89 (Annexure-II) whereby the following pay structure was introduced for Data Entry Operators:

Grade-A	Rs.1150-1500
Grade-B	Rs.1350-2200
Grade-C	Rs.1400-2300
Grade-D	Rs.1600-2660
Grade-E	Rs.2000-3500

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Basing on the same, R-4 issued order dated 10-9-90 (vide Annexure-IX) re-designating the posts of operators in the Census Department as 'Data Entry Operator Grade-B' and the payscale was revised from Rs.1200-2040 to Rs.1350-2200. But when the benefit of the said revised payscale was given effect from 11-9-89 only the Data Entry Operators Grade-B of Census Office filed O.A. 957/90 on the file of this Bench claiming the benefit of the revised payscale of Rs.1350-2200 with effect from 1-1-86 as the benefit was extended to Data Entry Operators Grade-B in the Railways with effect from 1-1-86. That O.A. was allowed on 9-7-92.

5. Before the issual of the order dated 10-9-90 by R-5, the following posts with the following pay-scales were in existence in the Census Department:

Operator	Rs.1200-2040
Jr. Supervisor	Rs.1400-2300
Sr. Supervisor	Rs.1640-2900.

re-designations only in regard to the post of Operator and the revision in the payscale was also in regard to the same post. There was neither change in the designation nor in the pay-scales of the posts of Junior Supervisor and Senior Supervisor. The promotion from the post of Data Entry Operator to Junior Supervisor is on the basis of selection and the promotion from the post of Junior Supervisor to Senior Supervisor is also on the basis of selection.

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It may be further noted that while the payscale of Junior Supervisor and the Data Entry Operator Gr-C is same, i.e. Rs.1400-2300, the payscale of Senior Supervisor is Rs.1640-2900 while it is only Rs.1600-2660 for Data Entry Operator Gr-D.

6. In pursuance of the Ministry of Finance order dated 11-9-90, model employment rules were issued for the posts of Data Entry Operators Grades A, B, C, and D under O.M. dated 14/01/90/25/100 Bill No. 2122 10-9-90. They laid down direct recruitment for Grade-A, by direct recruitment and promotion in a ratio for Grade-B, and solely by promotion for Grade-C and Grade-D as method of recruitment. But the promotion is by way of non-selection.

7. After 10-9-90, Grade-A posts in Data Entry Operators were created in the Census Department. By the date of filing this O.A. there were 63 posts in Grade-A, 72 posts in Grade-B and in the category of Data Entry Operators in the office of R-5.

8. The contentions for the applicant who presented his case in person are as under:

(i) When the Ministry of Finance O.M. dated 9-11-89 referred to Grade C and D posts also in Data Entry Operators, no such posts were created in the Census Department while such posts were created in other departments like Central Excise and Customs and also Railways, besides the National Informatic Centre (NIC). Thus while the Data Entry Operator in Grade-B in the above departments are having the promotional benefit by way of non-selection, the Data Entry Operators Grade-B (Senior Supervisors) in the Census Department are not having that benefit and thus it amounts to stagnation.

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(ii) The promotions to the post of Junior Supervisor from Data Entry Operator Grade-B and the further promotion to the post of Senior Supervisor from Junior Supervisor is by way of selection, which promotions from Grade-B upto Grade-E in the category of Data Entry Operator in Excise, Income-tax, Railways and NIC is on the basis of seniority-cum-suitability and thus there is discrimination even in the method adopted for promotion.

(iii) When the Ministry of Finance O.M. dated 11-9-89 revising the payscale, structure, etc., is issued to make it applicable to all the departments the Data Entry Operators in the Census Department are being deprived of that benefit.

9. It is submitted by Shri N.R.Devraj, the learned Standing Counsel for the respondents that paras 2 and 4 of the OM dated 11-9-89 which are as under--

"2. All Ministries/Departments having Electronic Data Processing posts under their administrative control will review the designation, payscales and recruitment qualification of their posts and revise the same in consultation with their Financial Advisers to the extent necessary as per pay structure indicated in para 1 above. Where it is found necessary to revise the pay scale of existing posts, notification will be issued by concerned Ministry/Department and copy of notification endorsed to Implementation Cell, Department of Expenditure. The revised payscales will be operative from the date of issue of notification by concerned Ministry/Department.

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4. The review suggested in para 2 above will be made only with reference to existing Electronic Data Processing posts and it will not be necessary to create all the grades in all Ministries/Departments as it will depend on requirements of user department. If Ministry/Department proposes to create anygrade which is not existing at present it will be done with approval of Financial Advisers and subject to procedures laid down for the purpose.

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make it clear that it is for the concerned ministry/department having EDP posts under their administrative control to review the designations, payscale and recruitment qualification of that post and revise the same in consultation with their financial advisor to the extent necessary as per the pay structure in para 1 of the said O.M. and it will not be necessary to create all the grades in all ministries/departments as it will depend on requirement of user department, and as only the post of Operator was existing and the same was redesignated as Data Entry Operator Grade-B and that the payscale of Senior Supervisor is more than the payscale of Data Entry Operator Grade-D, while the payscale of Junior Supervisor is same as that of Data Entry Operator Grade-C. It was not ~~found~~ necessary to create separate posts of Data Entry ~~and~~ Operators Grade-C or Grade-D.

10. It may be noted that even though the Seshagiri Committee recommended 'AA' Grade as a Transition Grade and 'A' to 'E' grades, the Ministry of Finance approved only the five grades of A to E and the corresponding scales of 'AA' to 'D' grades as recommended by Seshagiri Committee were respectively fixed for the Grades A to E. It may be further noted that while the Seshagiri committee proposed ratio for Grade A to Grade-D, no such ratio is prescribed in OM dated 11-9-89 of the Finance Ministry.

11. Even annexures XII and XIV filed by the applicant do not indicate that the which are in regard to Income-Tax Department and Railways do not indicate that the ratio as recommended by Seshagiri Committee in regard to Data Entry Operators in various posts was followed in the said departments. Annexure-XIV shows that

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a ratio was followed in regard to the category of Data Entry Operators in Railways even before the said proceedings dated 22-3-94 was issued, and the same was altered to some extent by the said proceedings. Hence it cannot be stated that the ratio as recommended by Seshagiri Committee was followed even by Railways. It is evident from the OM dated 11-9-89 of the Ministry of Finance that it is for each department to assess and it is not necessary to create posts in all categories as it depends upon the need and requirement. But the applicant vehemently urged that the work of the Data Entry Operators in all the grades, is to enter the data into computers, and The Seshagiri Committee recommended various grades in order to avoid stagnation in view of the health hazard to which they are ~~subjected to~~ ^{exposed} in discharge of their duty as Data Entry Operators and hence it is necessary to create the Grades C, D & E in the post of Data Entry Operators in the Census Department also.

12. While marking copy of OM dated 11-9-89 to Ministry of Planning, National Informatic Centre, the latter were requested "to evolve the job assignment charts for different levels of Data Entry Operators which can be adopted by different Ministries/Departments as in paragraph 8 of the OM above." It does indicate that the job to be assigned to various levels of Data Entry Operators is not uniform. It is not clear as to whether the NIC has already evolved the job assignment charts.

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If the said Job Assignment Charts are not yet evolved the Ministry of Personnel has to require the NIC to evolve the job assignment charts for different levels of Data Entry Operators and on that basis R.4 has to consider as to whether the posts in Grades C and D in the posts of Data Entry Operators are to be created in the Census Department.

12.A Annexure-XIV shows the designations in the Railways as Data Entry Operator, Senior Data Entry Operator, General Bench Room Supervisor with scales corresponding to the pay scales of Data Entry Operators Grades B, C, & D respectively. Besides that there is another post called as Data Processing Superintendent which is in the pay scale of Rs.2000-3200 among the EDP staff of the Railways. It is not known as to whether there is change in the designations in regard to those posts and whether there is also a change in the recruitment rules as per OM dated 11-9-89. Para 2 of OM dated 11-9-89 stipulates review even in regard to recruitment qualification of the various posts. Thus after consideration of the job assignment charts if already evolved or to be evolved if they are not yet evolved by the NIC, it is for R.4 to review in order to consider as to whether the posts of Junior Supervisors and Senior Supervisors have to be re-designated and if so whether the recruitment rules in regard to the said posts also have to be revised.

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13. Shri N.R.Devraj, learned standing counsel for the respondents submitted that there is no need to file a reply statement for they are merely relying upon paras 2 and 4 in the OM dated 11-9-89 and the respondents are ready to furnish any information or produce any record which are required for consideration of this O.A. Thereafter the particulars in regard to the ~~expansive~~ number of posts in Grades A & B in the posts Junior and Senior Supervisors are produced.

14. In view of the material on record this O.A. has to be disposed as under:

"Respondent No.3 has to require the National Informatic Centre (NIC) to evolve the job assignment charts for different levels of data entry operators as envisaged in para 8 of Finance Ministry, Department of Expenditure, Implementation Cell OM No.F.7(1)/IC/86(44) ^{On the basis of the above assignment chart,} dated 11-9-89. Respondent No.4 has to review as contemplated in paras 2 and 4 of the OM dated 11-9-89 herein-before referred to and determine as to whether the posts in Grades C & D in the category of Data Entry Operator have to be created or not. R-4 has to further consider on the basis of such review as to whether the recruitment rule in regard to Junior Supervisor, the payscale of which is same as that of the payscale of Data Entry Operator Grade-C.

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requires alteration in case a decision is taken to the effect that there is no need to create Grade-C in the post of Data Entry Operator."

15. The O.A. is ordered accordingly. No costs//

M
(R.Rangarajan)
Member (Admn.)

Neeladri
(V.Neeladri Rao)
Vice-Chairman

Dated: the 21 th day of September, 1995.

mhb/

Arvind Rao
Deputy Registrar (J) CC

To

1. The Secretary, Ministry of Home Affairs,
Govt.of India, Central Secretariat, New Delhi.
2. The Secretary, Ministry of Finance,
Govt.of India, Central Secretariat, New Delhi.
3. The Secretary, Ministry of Personnel Public
Grievance and Pensions (Dept.of Personnel & Training)
Govt.of India, Central Secretariat, New Delhi.
4. The RegistrarGeneral, India, 2/A,
Mansingh Road, New Delhi-11.
5. The Deputy Director of Census Operations,
A.P.Pioneer House, Somajiguda Hyderabad-482.
6. One copy to Mr.L.Nageswar Rao, Party-in-person.
O/o Directorate of Census Operations
A.P.Kendriya Sadan, Koti, Hyderabad-195.
7. One copy to Library, CAT.Hyd.
8. One copy to Library, CAT.Hyd.
9. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR.JUSTICE V.NELLADRI P.NO
VICE-CHAIRMAN

and

THE HON'BLE MR.R.RANGARAJAN : M(ADMN)

DATED:- 21 - 9-1995.

ORDER/JUDGMENT.

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

in

O.A.No.

482/94

P.A.No.

(W.P.)

Admitted and Interim Directions
Issued.

Allowed

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.

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