

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.310 of 1999

DATE OF JUDGMENT: 24 JANUARY, 2000

BETWEEN:

G.AMRUTHA RAO

.. APPLICANT

AND

1. Union of India rep. by the
Secretary to Government,
Ministry of Defence,
New Delhi,
2. The Engineer-in-Chief,
Army Headquarters,
New Delhi 110 001,
3. The Chief Engineer,
Southern Command,
Military Engineering Services,
Pune,
4. The Garrison Engineer (E/M),
Military Engineering Services,
Mud Ford,
Secunderabad,
5. The Assistnat Garrison Engineer (E/M),
Military Engineering Services,
Golconda,
Hyderabad.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.SIVA

COUNSEL FOR THE RESPONDENTS: Mr.V.RAJESWAR RAO, Addl.CGSC

CORAM:

HON'BLE SRI JUSTICE D.H.NASIR, VICE CHAIRMAN

HON'BLE SRI S.MANICKAVSAGAM, MEMBER (ADMN.)

JUDGMENT

ORDER (PER HON'BLE SRI S.MANICKAVASAGAM, MEMBER (ADMN.))

Contd....2

The applicant is working as Electrician in the Military Engineering Service (MES for short). It is stated in the application that the applicant had completed ITI Apprenticeship. In the MES, the feeder cadre for Electrician grade is Wireman. Though initially the scale of pay of Wireman was Rs.210-290, at a later date, Government of India upgraded this post and the scale of pay was fixed at Rs.260-400. However, the pay scale of Electrician was not revised. When the applicant made a representation to the respondents comparing his case with that of Electrician working in Central Public Works Department and National Institute of Small Industry Extension Training, the request of the applicant was not conceded. It is under these circumstances the applicant is before the Tribunal seeking the following reliefs:-

"(a) To declare that the action of the respondents in not granting Rs.1200-1800 to the post of Electrician in the respondent organisation as arbitrary, illegal, unjust and violative of Articles 14, 16 and 39(d) of the Constitution of India;

(b) To declare that the applicant is entitled for fixation of his pay in the scale of Rs.1200-1800 (4th Pay Commission) as is being extended to Electricians having the same qualifications as possessed by the applicant in Central Public Works Department and National Institute of Small Industry Extension Training; and

(c) Consequently direct the respondents to pay his salary and

Re.

allowances in the pay scale of Rs.1200-1800 and all benefits that are consequential to such a fixation together with the interest therein at 12% per annum."

2. The respondents have filed a detailed reply. It is averred in the reply that a similar point was raised in OA No.1141/97 which was disposed of by the Tribunal on 27.8.97 directing the respondents to dispose of the representation. Pursuant to the said direction in OA No.1141/97, the respondents issued a detailed letter to all those applicants in OA No.1141/97 vide letter dated 27.2.98. It is against this that the applicant is before the Tribunal now.

3. Briefly stated, the applicant was working in MES since 19.10.1983 in the grade of Electrician in the pay scale of Rs.260-400. Admittedly, the grade of Wireman carries the pay scale of Rs.210-290 which forms the feeder category for promotion to the grade of Electrician. Subsequently, Govt. of India decided to club the post of Wireman, Lineman, SBA and Electrician under the same grade viz, Rs.260-400. This was later revised corresponding to the scale of Rs.950-1500.

4. It is also stated that the functions and duties performed by the Electrician in different Departments differ widely. They are not similar. Further, it is stated in the reply that the next promotion cadre to the Electrician in CPWD is much higher viz, in the Foreman category. In addition, in the reply given to all the

Q.

applicants in OA No.1141/97 several differences have been cited so as to bring out the nature and the functions of Electrician grade in each Department and, therefore, it is the case of the respondents that the applicant's case does not deserve any consideration.

5. Heard the counsel for both the sides. The learned counsel for the applicant urged vehemently that it has been the accepted principle as laid down by the Supreme Court insofar as equal pay for equal work is concerned. Therefore, it is his contention that Electricians in different Departments serving under the same Central Government will ^{have to} be given same treatment. The learned counsel cited the case of "INDER SINGH Vs. VYAS MUNI MISHRA [1987 (Supp) SCC 257]" and the case of "S.THIRUVALLUVAN AND OTHERS Vs. UNION OF INDIA AND OTHERS [1995 Supp (3) SCC 436]".

6. The learned counsel for the respondents opposed the OA on merits. He drew our attention to the various points mentioned in the letter dated 27.2.98 wherein it has been clearly brought out as to what are the differences between the Electrician working in different Departments and, therefore, there cannot be any parity of pay since the duties performed are vastly different. This is a second round of litigation in this case. When the matter was brought out in OA NO.1141/97, the Tribunal ordered that the respondents may examine the case and dispose of the representations. This direction issued by the Tribunal was adhered to and the respondents carefully considered the various points and issued a detailed order dated 27.2.98.

The matter should have been ended then and there. Not satisfied with the reply given, the applicant has chosen to come before the Tribunal once again without advancing any further ^{cause} ~~course~~ or new material for consideration. However, in view of the fact that the matter has been argued extensively, we propose to dispose of this OA on merits.

7. It is pleaded by the applicant that equal pay for equal work should be made applicable in the case of the Electrician grade and the anomalous situation obtaining in various Departments should be sorted out in favour of the applicant. Admittedly, the Supreme Court has held in more than one occasion that the equal pay for equal work should be followed in substance. But it is also said that one cannot blindly apply this dictum and has to carefully check the various parameters.

8. In this case, except for the fact that the designation of the applicant is same as in the Departments like CPWD, National Institute of Small Industry Extension Training etc., it is noticed that the content of work is vastly different. This has been clearly explained in the letter dated 27.2.98. Further, the Recruitment Rules for the post of Electrician in CPWD and MES are totally different insofar as the post of Electrician is concerned. While in CPWD the Electrician functions as a cable jointer also, in MES the Cable Jointer is highly Skilled ^{grade} carrying a different scale of pay. In CPWD, an Electrician is treated as a Highly Skilled post in the supervisory cadre whereas in MES the Electrician is treated as a worker. In CPWD, the Electrician is the feeder cadre for the Foreman

h..

Electrical. Whereas in MES there are 3 grades in the Electrician cadre namely Rs.1200-1800, Rs.1320-2040 and Rs.1400-2300. Therefore, it has been held by the respondents that there is no scope for giving the scale of pay of the Electrician in CPWD to the Electrician in MES.

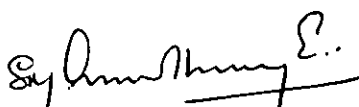
9. In a recent judgment in the case of "NAIN SINGH BHAKUNI AND OTHERS Vs. UNION OF INDIA AND ANOTHER [(1998) 3 SCC 348]", the Supreme Court had an occasion to examine a similar case of Draftsmen in two different Departments. The conclusions arrived in that case are very relevant to the case on hand. Though the Draftsmen category is available in CPWD as well as in CWC, since the Recruitment Rules provide different qualifications and criterion for promotion is different, it was held that there can be two different scales and it will not violate Article 14 of the Constitution. It was also held that doing same type of work ^{by} itself cannot form a right for same scale of pay.


10. As stated above, the applicant working in MES cannot compare himself with the Electrician working in CPWD or other organisations as long as each one is governed by different set of Recruitment Rules, promotional prospects and different duties. It has been amply brought out by the respondents that Electrician working in CPWD cannot be compared with the Electrician working in MES. Though it has been vaguely stated that the Department can compare an Electrician who is working in the National Institute of Small Industry Extension Training, no details have been furnished. In the absence of any details, it is to be believed ^{that} no favourable comparison can be made. If so, the

Je..

applicant ought to have brought out very clearly at the time of making representation as ordered in OA No.1141/97.

11. Under these circumstances, we do not find any merit in the application. Accordingly, the application is dismissed. No order as to costs.


(S.MANICKAVASAGAM)
MEMBER (ADMN.)


(D.H.NASIR.j)
VICE CHAIRMAN

DATED: 24th JANUARY, 2000

vsn