

(12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH : JAIPUR

Date of order : 21.07.2000

1. O.A. No. 130/1994

Madan Lal - Wireman, son of Shri Ram Karan, Village & Post
Prahladpura, Via Kaithoon, District Kota.

... Applicant.

2. O.A. No. 131/1994

Radhey Shyam, Wireman son of Shri Srikishan Kumawat, Behind Gopal Ji
Ka Mandir, Nayapura, Kota (Raj.).

... Applicant.

3. O.A. No. 236/1994

1. Nam Dev son of Shri Sadhu Ram aged 42 years working as Wireman -
Office of the A.E. Cable I Kota, resident of Purana Murgi Form
Dadwada Kota Jn.

2. O.N.K. Kurup son of Shri Narayan Kurup aged 43 years Wireman, in
the office of A.E. Trunks M A X I Kota.

3. Mohan Lal Meena son of Shri Madho Lal aged 33 years Wireman in the
office of A.E. Cables I Kota, resident of village Balita Post
Kunhadi Distt. Kota.

4. Gopal son of Shri Amar Lal aged 42 years Wireman, Office of S.D.O
Phones, Kota.

5. Prabhu lal son of Shri Bhanwar Lal aged 49 years Wireman in the
office of SDO Phones I Kota, resident of near Roadways Bus Stand,
Nayapura, Kota.

6. Purushottam son of Shri Sukhmal aged 50 years, Wireman, in the
office of AE Kota, resident of quarter No. Type-II P&T Colony,
Vigyan Nagar, Kota.

... Applicants.

versus

1. Union of India through the Secretary to the Government of India, Department of Posts, Ministry of Communications, New Delhi - 110 001.
2. The Chief General Manager, Telecommunication, Rajasthan Circle, Jaipur.
3. The General Manager, Telecommunication, Rajasthan Circle, Jaipur.
4. The Telecom Distt. Engineer, Kota Division, Kota : 324 002.

... Respondents.

Mr. S.K. Jain Counsel for the applicants.

Mr. M. Rafiq) Counsel for the respondents.

Mr. Hemant Gupta)

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman.

Hon'ble Mr. N.P. Nawani, Administrative Member.

: O R D E R :

(Per Hon'ble Mr. Justice B.S. Raikote)

All these applications involve common question facts and law, hence we are disposing all of them by this common judgement/order.

2. The applicants, admittedly, were appointed as Wireman in the Department of Posts and Telegraph on different dates, but their respective appointment orders stated that the pay scale was Rs. 210-270. According to the applicant, as per the rules, the correct pay scale of Wireman is Rs. 260-350 as on the date of their respective appointments, and they are also entitled to the said pay scale. Therefore, they prayed that appropriate direction may be issued to the respondents to fix the pay scale at Rs. 260-350, as revised from time to time, with effect from the date of their respective appointments with all consequential benefits, including the arrears of pay. It is also stated on behalf of the applicants that the Wireman in Telecom Wing are paid the pay scale of Rs. 260-350 and they are also entitled to the same pay scale on the principle of 'equal pay for equal work'.

3. The respondents by filing counter denied the case of the applicants. It is stated that the pay scale of Wireman was at Rs. 210-270 as on the

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date of their respective appointments and accordingly, the same has been mentioned in their appointment orders. Consequently, the applicants were not given the pay scale at Rs. 260-350 as on the date of their respective appointments. They further contended that the pay scale at Rs. 260-350, that was given to the Telecom Wing, was not applicable to the Posts & Telegraph Wing and as such Articles 14 and 16 of the Constitution of India are not violated by the respondents. Accordingly, the respondents have sought dismissal of these applications.

4. The issue involved in this case is already decided by this Bench of the Tribunal in O.A. Nos. 286/95 (Mahesh Chand vs. UOI & Ors.), 296/95 (Ram Pratosh Pareek vs. UOI & Ors.) and 629/96 (Manjeet Singh vs. UOI & Ors.) vide its judgement/order dated 13.4.2000. That was the order to which myself and my brother Shri N.P. Nawani are the parties. In that judgement, we followed the earlier judgement/order of this Tribunal dated 15.2.93 passed in T.A. No. 351/92 and another judgement/order dated 12.8.93 passed in OA No. 168/90, holding that the Wiremen were entitled to the pay scale at Rs. 260-350. We also considered the rules of Indian Post & Telegraph Rules, as amended with effect from 8.2.74, published in the Gazette of India Extra-ordinary dated 8.2.74. In this amended rules, the pay scale at Rs. 110-155 was equated to Rs. 260-350. In fact a letter No. 2-8/90-E-I dated 19.7.90 issued by the D.G. Posts, New Delhi, clarified this position that the Wiremen are entitled to the pay scale of Rs. 950-1500 (equivalent to Rs. 260-350) and the Assistant Wiremen are entitled to the pay scale of Rs. 800-1150 (equivalent to Rs. 210-270) and on the basis of these documents and other facts and circumstances of those cases, the Tribunal ultimately came to the conclusion that the Wireman was entitled to the pay scale of Rs. 260-350 notwithstanding what has been stated in the respective appointment orders. When the rules fix a particular pay scale, it is not open to the authority to provide a lower scale for the post. Therefore, following the judgement of this Tribunal dated 13.4.2000 passed in OA Nos. 286/95 (Mahesh Chand vs. UOI & Ors.), we allow these applications also. In O.A. No. 236/94, we find that the applicants Nos. 5 and 6 were appointed with effect from 9.2.71 and 11.2.71 respectively. Therefore, they would be entitled to the revised pay scale at Rs. 260-350 only with effect from 8.2.74, the date of amending the rules of Indian Posts and Telegraph Rules. Accordingly we pass the order as under:-

5. The applicants are entitled to the pay scale at Rs. 260-350 and to equivalent pay scales, effected from time to time, right from the date of their respective appointments, except the applicants Nos. 5 and 6 in O.A. No. 236/94, who would be entitled with effect from 8.2.74 on which date, according to their case, they were already working as Wiremen. ^{However,} if the applicants were to file a suit for arrears, the limitation would be ~~only~~ three years. Therefore, we declare that all the applicants are entitled to difference

in pay scale as arrears only for a period of three years preceeding the date of their respective applications. Accordingly, all the OAs stand disposed of.

5. No order as to costs.

(N.P. NAWANI)
Adm. Member

(B.S. RAIKOTE)
Vice Chairman

cvr.

Copy has been served to the
both parties, & also in the
No. 236/94 Nam Dev

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28/1/20