

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

(11)

O.A. No. 322/94
T.A. No.

199

DATE OF DECISION 20.1.2007

Suresh Chand Sharma

Petitioner

Mr. S.K.Jain

Advocate for the Petitioner (s)

Versus

Union of India and Ors.

Respondent

Mr. U.D.Sharma

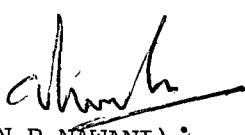
Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. S.K.AGARWAL, JUDICIAL MEMBER

The Hon'ble Mr. N.P.NAWANI, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? *Yes*.
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?


(N.P. NAWANI)
Adm. Member


(S.K. AGARWAL)
Judl. Member

(12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 28.1.2007

OA No.322/94

Suresh Chand Sharma, Wireman S/o Shri Mangal Chand Sharma, O/o Postmaster, Head Post Office, Bundi.

.. Applicant

Versus

1. Union of India through the Secretary to the Government of India, Department of Posts, Ministry of Communication, New Delhi.
2. The Chief Post Master General, Rajasthan Circle, Jaipur-7
3. The Postmaster General, Rajasthan Eastern Region, Ajmer.
4. The Superintendent of Post Offices, Tonk Division, Tonk.
5. The Sr. Superintendent of Post Offices, Kota.
6. The Superintendent of Post Offices, Bharatpur Division, Bharatpur.

.. Respondents

Mr. S.K.Jain, counsel for the applicant

Mr. U.D.Sharma, counsel for the respondents

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

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

ORDER

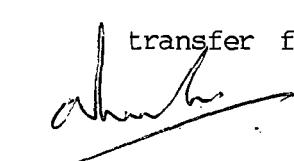
Per Hon'ble Mr. N.P.Nawani, Administrative Member

This Original Application has been filed by the applicant with a prayer to direct the respondents to allow him the pay scale of Rs. 260-350 w.e.f. 27.3.1980 i.e. the date of appointment to the cadre of Wireman.

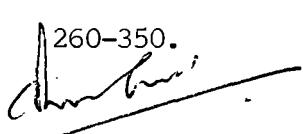
2. The facts of the case as stated by the applicant are that the applicant was recruited to the post of Wireman by the Senior Superintendent of Post Offices (for short, SSPO), Kota (respondent No.5) on his name being



sponsored by the Employment Exchange. His recruitment was made on the pay scale of Rs. 260-350 and similar memos were also issued in favour of other candidates for the post of Wireman. Two memos in respect of S/Shri Ram Swaroop Verma and Nand Lal Kalwar were issued. Copies of both memos are at Ann.A2 and A3. Earlier respondent No.5 had issued a requisition letter dated 24.12.1979 to Employment Exchanges wherein the grade of Workman was shown as Rs. 260-350 (Ann.A4) and later the same respondent had informed the Employment Exchanges that four candidates were selected for the Wireman cadre. After recruitment the applicant was allotted the Bharatpur Division where he was given pay scale of Rs. 210-270 instead of Rs. 260-350 against which representation dated 6.4.1980 (Ann.A6) was made to SSPO, Kota. It was specifically mentioned therein that the applicant was recruited to the post of Wireman in the pay scale of Rs. 260-350 as per the call letter given to him but the Superintendent of Post Offices (for short SPO), Bharatpur (respondents No.6) vide memo D-264 dated 26.3.1980 (Ann.A7) had given the scale of Rs. 210-270. It has also been stated that the other colleagues of the applicant are getting the scale of Rs. 260-350. However, it is understood that SSPO vide letter dated 9.4.1980 had informed SPO, Bharatpur to fix the Workman in the scale of Rs. 260-350 but despite this no action has been initiated by SPO, Bharatpur. On being aggrieved, the applicant submitted a representation to the Director, Postal Services, Eastern Region requesting that despite clear instructions regarding pay scale in the call letter as well as in the letter dated 9.4.1980 from SSPO, SPO, Bharatpur has fixed him in the pay scale of Rs. 210-270 and that as per the Third Pay Commission's report the scale given to the applicant is related to the post of Assistant Wireman and not for Wireman. The said representation (Ann.A8) remained unresponed but at the same time it was understood that since some colleagues (viz. Rajendra Kumar, Ram Swaroop and Nand Lal) of the applicant have gone to Court and, therefore, the applicant should wait till decision is announced. The applicant could not pursue this matter due to his transfer from Bharatpur to Bundi HPO (Tonk) in 1981. After knowing the



decision of the Jaipur Bench of the Tribunal in respect of S/Shri Rajendra Kumar and Ram Swaroop that it have ordered to restore the pay scale of Rs. 260-350 to the cadre of Wireman, the applicant again submitted a representation dated 10.8.1993 (Ann.A9) to SPO, Tonk (respondent No.4) to grant the same pay scale as was granted to his other colleagues of the selection list. This was followed by representation to the Chief Postmaster General, Rajasthan Circle (respondent No.2) on 14.9.1993 (Ann.A10) with details of the Tribunal's decision and was further followed by reminders but he got no satisfactory reply from the respondents. The contention of the applicant is that the applicant is entitled to be treated like others who were benefited by the judgment of the Jaipur Bench of the Tribunal dated 15.2.1993 and 12.8.1993 and given the pay scale of Rs. 260-350 w.e.f. 1.1.1973; that the doctrine of equal pay for equal work should prevail as the duty, work, risk and responsibilities are same for each Workman in the P&T Department; that as per the Third Pay Commission report two separate grades have been shown for Wireman and Assistant Wireman but because the applicant was initially appointed on the post of Wireman, he is entitled to get the pay scale of Rs. 260-350 and not Rs. 210-270; that as per the Gazette of India, Extraordinary V.II Sect.3 sub sect. (1) issued with letter dated 8.2.1974 by the PMG, Rajasthan Circle, it has specifically been mentioned that the grade of Workman is higher than that of Assistant Wireman and the applicant having been appointed as Wireman is entitled to the higher grade; that the applicants of TA/351/92 (decided on 15.2.1993) and OA No.163/90 (decided on 12.8.1993), copies annexed at Ann.A13 and A14 were recruited to the post of Wireman alongwith the applicant by the same DPC held on 8.2.1990 in the grade of Rs. 260-350 and accordingly all four inclusive of the applicant were selected to the post of Wireman (Ann.A5) and, therefore, in the light of parity in employment and principle of equal pay for equal work, the applicant has rightful claim to the scale of Rs. 260-350.



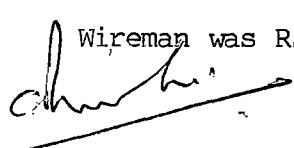
260-350.

3. The respondents have filed a reply opposing the averments made by the applicant. They have taken preliminary objections that the applicant's grievance arose on 27.3.1980 which is earlier than the period of 3 years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal had become exerciseable under Section 21(ii)(a) of the Administrative Tribunals Act, 1985, therefore, the application is not maintainable and deserves to be dismissed summarily at the admission stage itself. As far as the merits of the case are concerned, it has been stated on behalf of the respondents that no doubt, the pay scale of Rs. 260-350 for the post of Wireman has been mentioned in the requisition sent to the Employment Office and the same pay scale has also been mentioned in the latter dated 4.2.1980 sent to the applicant directing him to appear for the interview, however, the said pay scale was mentioned inadvertently and by oversight and the same was rectified by mentioning the proper and prescribed pay scale of Rs. 210-270 for the post of Wireman in the appointment order dated 26.3.1980 and the applicant had thus accepted the said pay scale of Rs. 210-270 and joined his duties, the appointment letter being the foundation of the contract of employment between the applicant and respondents. The respondents have also enclosed a copy of the Ministry of Finance notification dated 22.9.1986 (Ann.R1) which shows that the pay scale of the post of Wireman in the Department of Telecommunications prior to 1.1.1986 was Rs. 210-270 which is being revised to Rs. 825-1200 w.e.f. 1.1.1986 and the applicant is accordingly getting the revised pay scale of Rs. 825-1200. As regards the decision of the Tribunal in various cases mentioned by the applicant, it has been contended that the same are applicable only to the applicants therein and have no universal application.

4. We have heard the learned counsel for the parties and have carefully perused the material on record.

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5. The respondents have not controverted the assertion of the applicant that he was appointed on the post of Wireman and it has nowhere been mentioned that he ought to have been appointed in the post of Assistant Wireman. All that has been contended by the respondents is that they had inadvertently and by oversight mentioned pay scale of Rs. 260-350 in the notice to the Employment Officers and also in the letter calling the applicant to appear for the interview and that the same was corrected in the appointment order dated 26.3.1980 issued in favour of the applicant wherein the correct pay scale of Rs. 210-270 was mentioned and the applicant had accepted the same and joined the post. The respondents have also sought support from the Central Civil Services (Revised Pay) Amendment Rules, 1986 published in the Gazette of India Extraordinary dated 22.9.1986 in which it has been mentioned under the heading, Department of Telecommunications, the scale of Rs. 210-270 for Lineman/Wireman and the corresponding revised scale (after implementation of the recommendations of the Third Pay Commission) of Rs. 825-1200. This indicates that the pay scale of Wireman was Rs. 210-270. On the other hand, the applicant has drawn support from Notification of the Ministry of Finance dated 31st December, 1973 circulated by the Post Master General, Rajasthan Circle letter dated 8.2.1974 (Ann.A15). In the aforementioned Gazette Notification under the heading, Ministry of Communications the pay scale of the Wireman has been revised from the present scale of Rs. 110-155 to Rs. 260-350 and the revised pay scale is deemed to have come into effect w.e.f. 1.1.1973. The respondents have not explained as to how the Gazette Notification dated 31.12.1973 prescribes a pay scale of Rs. 260-350 for Wireman effective w.e.f. 1.1.1973 and then by Gazette Notification dated 22.9.1986, the pay scale of Wireman was Rs. 210-270 as the scale prior to 1.1.1986. If the pay scale of Wireman had been brought down from Rs. 260-350 to Rs. 210-270 during the period of 1.1.1973 and 31.12.1985, no orders/documents have been produced before us. We have to, therefore, infer that during the aforementioned period the pay scale of Wireman was Rs. 260-350 and also, therefore, on the date the applicant was



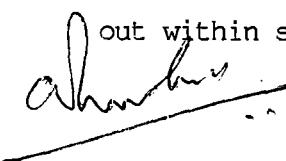
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appointed i.e. 26.3.1980 (Ann.A7).

6. The respondents have also not controverted the averment made by the applicant in para 4(E) that SSPO had vide his letter dated 9.4.1980 informed SPO Bharatpur (respondent No.6) to fix the Wireman in the pay scale of Rs. 260-350 and in the absence of a rebuttal, a presumption has to be drawn that the SSPO, who is superior to SPO, had informed him that the pay scale of Wireman was Rs. 260-350 and this also supports the contention that the pay scale of the Wireman was Rs. 260-350 during the said period.

7. The orders dated 15.2.1993 and 12.9. (year illegible) in OAs 351/1992 and 163/90 respectively cited by the applicant are somewhat distinguishable in that in both these cases the appointment letter appear to have carried the pay scale of Rs. 260-350 and it was only later on, through another order, that the pay scale was brought down to Rs. 210-270. In the present case of the applicant, the appointment letter had mentioned a pay scale of Rs. 210-270 and the applicant had never apparently ~~been~~ enjoyed the pay scale of Rs. 260-350. However, the aforementioned orders of this Tribunal are certainly applicable to this extent that the applicants therein were also Wireman in the same Department and were allowed the pay scale of Rs. 260-350 from their dates of appointment as Wireman i.e. w.e.f. 9.9.1981 and 22.2.1990 respectively and, therefore, the applicant, being similarly situated, is also entitled to it.

8. In the circumstances, this Original Application is allowed and respondents are directed to treat the applicant as having been appointed as Wireman in the scale of Rs. 260-350 w.e.f. 27.3.1980 and he should also be given the entitled consequential benefits including revision of pay scales and payment of arrears of pay and allowances. This direction may be carried out within six months of the receipt of a copy of this order.



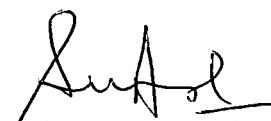
(14)

9. Parties to bear their own costs.



(N.P.NAWANI)

Adm. Member



(S.K.AGARWAL)

Judl. Member