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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of Order: 13.4.2000

1. OA 286/95

Mahesh Chand, Wireman, O/o the Supdt. of Post office, Bharatpur.

... Applicant

Versus

(1) Union of India, through the Secretary to the Govt. of India, Deptt. of Posts, Ministry of Communication Dak Bhawan, New Delhi - 110001.

(2) The Chief Post Master General, Rajasthan Circle, Jaipur- 7

(3) The Supdt. of Post Offices, Bharatpur Division, Bharatpur.

....Respondents.

Mr. S.K. Jain, Counsel for the applicant.
Mr. K.N. Shrimal, Counsel for the respondents.

2. OA 296/95

Ram Pratosh Pareek S/o Shri Radhey Shyam Pareek, Wireman, O/o the Supdt. of Post Office, Jaipur.

....Applicant

Versus

(1) Union of India through the Secretary to the Govt. of India, Deptt. of Posts, Ministry of Communication, Dak Bhawan, New Delhi-1.

(2) The Chief Post-Master General, Rajasthan Circle, Jaipur.

(3) The Superintendent of Post Offices, Jaipur, Mofussil Division, Shastri Nagar, Jaipur-16.

(4) The Sr. Superintendent, R.M.S., Jaipur Division, Jaipur- 1.

....Respondents.

Mr. S.K. Jain, Counsel for the applicant.
Mr. K.N. Shrimal, Counsel for the respondents.

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3. OA 127/95

Vijay Shanker Sharma S/o Shri Vijay Shanker Sharma Wireman, O/o Chief Postmaster General Rajasthan Circle, Jaipur- 7.

....Applicant

Versus

1. Union of India through the Secretary to the Govt. of India, Deptt. of Posts, Ministry of Communication, Dak Bhawan, New Delhi -1.
2. The Chief Postmaster General Rajasthan Circle, Jaipur.
3. The Sr. Supdt. of Post Offices, Jaipur City Divison, Jaipur- 6.

...Respondents

Mr. S.K. Jain, Counsel for the applicant.
Mr. K.N. Shrimal, Counsel for the respondents.

4. OA 320/95

Ram Swaroop Kumawat S/o Shri Ghisulal Kumawat, Wireman, O/o the Jaipur City Postal Division, Jaipur.

....Applicant

Versus

(1) Union of India through Secretary to the Govt. of India, Deptt. of Posts, New Delhi.-110001.
(2) The Chief Post Master General, Rajasthan Circle, Jaipur- 302007.
(3) The Sr. Supdt. of Post Offices, Jaipur City Postal Division, Jaipur- 302006.

....Respondents

Mr. C.B. Sharma, Counsel for the applicant.
Mr. K.N. Shrimal, Counsel for the respondents.

5. OA 321/95

Babu Lal S/o Shri Ghure Ram, Wireman, O/o Jaipur City Postal Division, Jaipur - 302006.

....Applicant

Versus

(1) Union of India through Secretary to the Govt. of India, Deptt. of Posts, New Delhi-110001.
(2) The Chief Post Master General, Rajasthan Circle, Jaipur- 302007.
(3) The Sr. Supdt. of Post Offices, Jaipur City Postal Division, Jaipur- 302006.

....Respondents

Mr. C.B. Sharma, Counsel for the applicant.
Mr. K.N. Shrimal, Counsel for the respondents.

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6. OA 629/96

Manjeet Singh S/o Joga Singh, Wireman, O/O the Sr. Superintendent of Post Offices, Jaipur City, Postal Division, Jaipur.

... Applicant

Versus

(1) Union of India through Secretary to the Govt. of India, Department of Posts, Ministry of Communication, New Delhi - 110001.

(2) Chief Post Master General, Rajasthan Circle, Jaipur- 302007.

(3) Senior Superintendent of Post offices, Jaipur City Postal Division, Jaipur- 302006.

(4) Superintendent of Post Offices, Jaipur (M) Division, Jaipur- 302017.

... Respondents

Mr. C.B. Sharma, Counsel for the applicant.
Mr. K.N. Shrimal, Counsel for the respondents.

CORAM

Hon'ble Justice Mr. B.S. Raikote, Vice-Chairman (J)
Hon'ble Mr. N.P. Nawani, Member (Admn.)

O R D E R

(PER HON'BLE JUSTICE MR. B.S. RAIKOTE, VICE CHAIRMAN (J)

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

2. The applicants, admittedly, were appointed as Wireman in the Department of Posts & Telegraph on different dates. The grievance of the applicants is that as per their respective appointment orders, the pay scale at Rs. 210-270 is given but the same is erroneous. According to the applicants, the correct pay scale for the post of Wireman is Rs. 260-350 as on the date of their appointment, and they are also entitled to the said pay scale. Therefore, appropriate order may be issued by this Tribunal to fix the pay scale at

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Rs. 260-350, as revised from time to time, with effect from the date of their respective appointments with all the consequential benefits including the arrears of the salary alongwith the interest. They also contended that they are entitled the pay scale at Rs. 260-350, as given to others, on the basis of the principle of 'Equal pay for Equal work.' They also contended that in similar cases, this Tribunal directed fixing of the pay scale at Rs. 260-350 to the Wireman in number of cases, already decided. They contended that the same benefit may be given to them also.

3. By filing reply, the respondents denied the case of the applicants. They contended that the applicants are given the pay scale at Rs. 210-270 and the same is correct. They stated that at the time applicants were recruited, 1968 rules were in force. According to those rules, they have given the pay scale at Rs. 210-270. It is further contended that the Fourth Pay Commission recommended replacement of the pay scale. According to the said recommendations, the applicants were given the replacement of pay scale at Rs. 800-1150 and they were not given the pay scale at Rs. 950-1400 which is equivalent to the pay scale at Rs. 260-350, since the applicants were appointed in the pay scale at Rs. 210-270. It is also contended that the application is barred by time. It is further alleged that whatever is the anomoly in the other cases of the other zones, the applicants were given the pay scale as per the sanctioned post by the Post Master General, Rajasthan Circle, Jaipur. They further stated that in the other cases, decided by this Tribunal, the applicants erroneously were given the pay scale of Rs. 260-350 and ~~xxxx~~ when the same was discovered was ordered by restoring the pay scale at Rs. 210-270. But later onthe basis of the order of CAT, the pay scale at Rs. 260-350 was restored to them. Like-wise, the pay scale that was given

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to Shri Mahesh Chand at Rs. 260-350 was based on order of the CAT, even though Shri Mahesh chand was not entitled to the said pay scale. They also contended in Para 4(k) that the duties of the Wireman in the Telecom Wing and the duties of the wireman in the Postal Wing is different. Therefore, the pay scale of Rs. 260-350 given to Wireman of Telecom was not applicable to the wireman of the Posts & Telegraph Wing and as such Article 14 & 16 are not violated by the respondents. Thus the respondents, on the basis of allegations, prayed for dismissal of this application.

3. The Learned counsel on both the sides submitted that we may refer the facts and documents as stated in OA 286/95. Accordingly, we base our findings on the pleadings and record in OA 286/95.

4. In OA 286/95, the applicant filed the copies of the judgement of this Tribunal passed earlier, at Annexure A-3 and A-4. Annexure A-3 is the judgement passed in TA no. 351/92 dated 15.2.93 and Annexure A-4 is the judgement passed in OA 168/90 dated 12.8.93. Those were the cases in which the applicants were appointed in the year 1980 as Wireman by giving the pay scale at Rs. 260-350. On the basis of Audit objections, when notices were issued to them for recovery of the alleged excess pay given to them, on the ground that their correct pay scale was Rs. 210-270, those applicants had approached this Tribunal. This Tribunal by holding that for the Wireman in Posts & Telegraph Department, the pay scale that is fixed is at Rs. 260-350 and not at Rs. 210-270, quashed the recovery notices. In those two judgements, it has been clearly held that the pay scale applicable to the post of Wireman is at Rs. 260-350. It is not in dispute that those

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judgements have become final. Moreover in the recent judgement dated 28.1.2000 in OA 320/94 decided by this Bench, it is again held that the pay-scale applicable to the Wireman of the Postal Department is at Rs. 260-350. From these judgements, prima-facie it follows that the correct pay scale of the wireman in the Postal Department is Rs. 260-350 and not at Rs. 210-270.

5. Even otherwise, we also applied our mind independently to the facts of the case. The applicant in OA 286/95 was appointed as Wireman on 13.4.81 vide Annexure A-2. His pay scale was shown as Rs. 210-270. The learned counsel for this applicant and other applicants submitted that his pay-scale shown in the appointment order is totally incorrect and erroneous and contrary to the rules. It should be noted at this stage itself that the immediately next pay scale to the pay scale at Rs. 260-350 was Rs. 950-1500.

6. It is not in dispute that the post of Wireman is a promotional post to the post of Assistant Wireman. It appears that one Shri Bhagwan Das was working as Wireman at Simla Division and vide communication dated 18.8.98 (Annexure MA/3), he was given the pay scale at Rs. 950-1500. We think it proper to extract the said order as under:-

"Department of Posts, India
O/o Sr. Supdt. Post offices, Shimla-171001

Memo No. D/MDB/Shimla/Dn./89
Dated at SML the 18.08.98

In pursuance of orders contained in Directorate letter No. 37-26/89-SPB-I dated 14.8.98 and further communicated by the CPMG HP Shimla endst No. STN/78-11/92/KW dated 17.08.98 Bhagwan Das Wireman Shimla Division may be given the scale of Wireman i.e. Rs. 950-1500 from 01.01.1986 as per the recruitment rules prepared by the Deptt. of Telecom vide their letter No. 7-PSE and further communicated by the Directorate vide letter No. 37-26/89-PS3-I dated 20.11.90

Sd/-
Sr. Supdt. Post Offices,
Shimla Division, Shimla -I"

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7. The respondents admitted that the pay scale at Rs. 260-350 was given to Shri Bhagwan Das but contended it was a mistake. At any rate it is not disputed that the Wireman of other wings of Posts & Telegraph Department (i.e. in telecommunication wing) are given the pay scale of Rs. 260-350. It is also not disputed that before bifurcation in 1984, the Postal Department and Telecom Wing were having only one post of Wireman with the pay scale of Rs. 210-270 and the middle school or equivalent examination was the qualification prescribed for eligibility. But later, the post of Assistant Wireman was created with the same pay scale of Rs. 210-270 and a promotion was provided to the post of Wireman with High School certificate as qualification as per the revised pay-scale vide Annexure A-7 dated 8.2.74. Since the applicants were appointed in 1980, 1981 onwards, it is revised pay scale of India Post & Telegraph Department Rules 1974 would be applicable. These rules are published in the Gazette of India Extraordinary by replacing the earlier rules. According to the earlier rules, prior to the rules at Annexure A-7, the pay scale of Wireman was at Rs. 110-155 but by the revised rules published in the Gazette of India Extraordinary dated 8.2.74, the said pay scale at Rs. 110-155 was ~~x~~ equated to Rs. 260-350. We think it proper to extract the relevant part of the Gazettee as under :-

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"Soc 3(i) THE GAZETTE OF INDIA EXTRAORDINARY 1839

(c) After sub-section 4(i), the following shall be inserted namely:-

"Sub-Section 4-POSTS AND TELEGRAPH DEPARTMENT

(i) WORK CHARGED ESTABLISHMENT

S.No.	Designation of Post	Present Scale	Revised Scale
1	2	3	4
1.	----	----	----
2.	----	----	----
3.	Operator (H&M)	110-3-131-EB-4-155	260-6-326-EB-8-350
4.	Works Assistant		
5.	Mechanic		
6.	Fitter		
7.	Wireman		
8.	Carpenter		
9.	Mason		
10.	Plumber		
11.	Lineman		
12.	Painter		
13.	Asstt. Operator	85-2-95-3-110	210-4-226-EB-4-259-EB-5-290"
14.	Asstt. Painter		
15.	Asstt. Wireman		
16.	Asstt. Carpenter		
17.	Asstt. Mazon		
18.	Asstt. Plumber		

(emphasis supplied)

8. From these revised rules, the revised pay scale for the post of Wireman is at Rs. 260-350 and for the post of Assistant Wireman is at Rs. 210-290. This position is further reflected in the CPWD Manual (Vol.III) Page 85 (1984 Edition) at Annexure A-10. The extract of the said manual shows that the pay scale of the wireman was at Rs. 260-400 and the pay scale of Assistant Wireman was fixed at Rs. 210-290. In the year 1990, there appears to have been further revision of these pay scales. The pay scale of the Wireman at Rs. 260-350 was equated at Rs. 950-1500 and pay scale of Assistant Wireman at Rs. 210-290 was equated to Rs. 800-1150. It would be useful if we extract Annexure A-9, as under:-

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"Copy of letter No. 2-8/90-E-I dated 19.7.90 from D.G. Posts, New Delhi addressed to P.M.G., Haryana Circle, Ambala and further circulated vide P.M.G. Haryana Circle, Ambala Endst. No. Staff/15/2/1 dated 24.7.1990.

Sub: Pay Scales for Electrical Staff-
Clarification regd.

With reference to your office letter No. Staff/ 164-32/II dated 15.9.88 and the reminder dated 7.3.90 on the above subject, it is stated that there are two categories of Wireman on Postal side viz. Assistant Wireman and Wireman. Assistant Wireman are placed in the scale of pay of Rs. 800-1150 and Wireman in the scale of pay of Rs. 950-1500. Assistant Wireman are semi skilled workers while wireman are Skilled workers. The qualifications for recruitment of Wireman are also higher than those of Assistant Wireman. In this connection para 11-24 of Fourth Central Pay Commission Report (Swamy's compilation) may please be referred to and the case may be decided accordingly.

Sd/-
(M.L. Bhaskar)

9. Meanwhile on the basis of IV Pay Commission, the pay scale of the Wireman and Assistant Wireman were revised. Vide Annexure R-2, filed by the respondents, equations of the pay scales are given. The pay scale at Rs. 260-430 was equated to Rs. 975-1540 regarding group 'C' and 'D' categories. If that is so, the applicants would be entitled for those pay scales according to the recommendations of the IV Pay Commission.

10. From all these documents, it is clear that as on date of their appointment, the applicants were entitled to the pay scale at Rs. 260-350 and the same was conclusion of this Tribunal in other cases, already decided, and if that is so, we have no reason to differ with the judgements already given by this Tribunal vide Annexures A-3 and A-4 which have already referred to above.

11. For the above reasons we have no option but to conclude that the applicants in all these applications are entitled to the pay scale at Rs. 260-350 w.e.f. their respective appointment and their appointment orders stating their pay scale at Rs. 210-270 was erroneous.

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12. Now a short point that remains for our consideration would be regarding the question of limitation these applications are filed in the year 1995-96. It is an established principle of law that so far as the pay scale is concerned, the cause of action is a continuing cause of action. But if they were to file the suits as on the date of their respective applications for arrears of the salary, certain amount would stand barred by time after three years. In this view of the matter, we uphold the contention of the respondents partly by recording a finding that the applicants are entitled to the arrears from three years preeceding date of their respective applications in this Tribunal. Accordingly we pass order as under:-

13. 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. Further they are entitled to difference in pay scale as arrears only for a period of three years preceedings the date of their respective applications. Accordingly all the OAs stands disposed of. No costs.

(N.P. NAWANI)
MEMBER (A)

(B.S. RAIKOTE)
VICE CHAIRMAN