(9)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 19.5.2000

OA No.254/96

Nemi Chand Golia S/o Late Shri Kistoor Chand ji, aged about 53 years at present employed on the post of D/Man II in the office of Chief Enginner (Civil), Telecom, Rajasthan Zone, Jaipur.

.. Applicant

Versus

1. The Union of India through the Secretary to Government of India, Ministry of Communications, Department of Telecommunication Sanchar Bhawan, New Delhi
2. The Chief General Manager, Telecommunications, Rajasthan Telecom circle, Jaipur.

.. Respondents

Mr. Shiv Kumar, counsel for the applicant

Mr. Hemant Gupta, proxy counsel to Mr.M.Rafiq, 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

In this Original Application filed under Section 19 of the Administrative Tribunals Act, 1985 the applicant prays that the impugned order dated 23.8.1995 may be declared illegal and be quashed. It has further been prayed that the respondents be directed to place the applicant in higher scale of pay of Rs. 1600-2660 from the date of completion of 8 years' service in Grade-II cadre i.e. 16.6.1988 and allow him all consequential benefits.

2. The case of the applicant, very briefly stated, is that in terms of the circular dated 12.9.1984 (Ann.A6) issued by the office of D.G., Posts and Telegraphs, he is entitled to the scale of Rs. 550-750/Rs. 1600-2660 on completion of 8 years of service and also because he being similarly situated, the applicant cannot be denied the benefit which has been extended to others, including some of his juniors, on the plea that the said pay scale was only given to the Draughtsmen who were the applicants in a number of OAs decided by various Benches of this Tribunal. It is urged that such denial will be patently illegal, arbitrary and against the policy laid down by the respondents themselves.

3. The respondents have filed a reply opposing the relief sought. As appears from the reply dated 23.8.1995 (Ann.A1) of the respondents to the representation of the applicant, the only ground on which the benefit of the higher scale has been denied to the applicant is that the judgment of the Calcutta Bench of this Tribunal has been implemented in the case of the applicants therein only. It has also been mentioned that a Review Petition has been filed in respect of the order dated 5.9.1994 in OA No.3/1995 of the Calcutta Bench of this Tribunal, which is still pending.

4. The learned counsel for the applicant has shown us the order rendered by the Bangalore Bench of this Tribunal in OA No. 93 of 1989 wherein relief similar to what has been prayed in this OA has been allowed and the Chief General Manager, Telecom, Karnataka Circle, has consequently passed an order dated 27.2.1991 placing the 13 Draughtsmen applicants in the pre-revised scale of Rs. 550-750 from Rs. 425-700 w.e.f the date on which they have completed 8 years of service. This order refers to the judgment of the Delhi High Court in Dharamvir Sehdev and Ors. v. Union of India and ors. against which SLP has been dismissed by the Apex Court and the order of the CAT, Guwahati in OA No.161/1987. We have also been given a copy of the order dated 3.7.1996 passed by the CAT, Calcutta in OA No.1077/1994 in which also the applicants were allowed the pay scale of Rs. 1600-2660 w.e.f. completion of 8 years of service. The only defence that the learned counsel for the respondents could put forward was that these judgments were in persona and not in rem and, therefore, higher pay scale was given to only those who were the applicants in the said OAs. Notwithstanding the fact that the Apex Court has dismissed the Special Leave Petition against the judgment of the Delhi High Court in Dharamvir Sehdev case, the respondents have the gumption to take a completely untenable contention that the Review Petition filed against order dated 5.9.1994 of the Calcutta Bench of this Tribunal in OA No.3/1995 is still pending. Even if it is so, it makes no difference since not only the judgment of the Delhi High Court has become final but since then the Calcutta Bench of this Tribunal has rendered another order dated 3.7.1996 in OA No.1077 of 1994 allowing the higher pay scale of Rs. 1600-2660 to the applicants therein. We are satisfied that the applicant herein is similarly situated as applicants in various cases mentioned above and there is absolutely no justification to deny the higher pay scale of Rs. 1600-2660 to the applicant w.e.f. the date of completion of 8 years of service as Draughtsman Grade-II in the pay scale of Rs. 425-700, revised to Rs. 1400-2300 w.e.f. 1.1.1986, which the applicant has been enjoying since 17.2.1982 as is evident from Memo dated 12.8.1993 (Ann.A3).

(17)

6. In view of the above discussions, the Original Application deserves to be allowed and is disposed of with a direction to the respondents to fix the pay of the applicant in the scale of Rs. 1600-2660 w.e.f. the date on which the applicant has completed 8 years of service, with consequential benefits. This directions shall be carried out within 3 months of the receipt of a copy of this order.

Parties to bear their own costs.

(N.P.NAWANI)
Adm. Member

(S.K.AGARWAL)
Judl. Member