

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No. 377/1998
Case No.

199

DATE OF DECISION 23.03.2001

Madan Lal Kumavat

Petitioner

Mr. A.L.Verma

Advocate for the Petitioner (s)

Versus

Union of India and ors.

Respondent

Mr. M.Refig

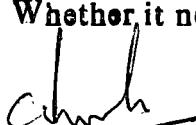
Advocate for the Respondent (s)

CORAM :

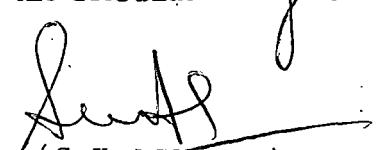
The Hon'ble Mr. S.K.AGARWAL, JUDICIAL MEMBER

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? Yes


(N.P.NAWANI)

Adm. Member


(S.K.AGARWAL)
Judl. Member

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 23.03.2001

OA No.377/1998

Madan Lal Kumawat, s/o Bhenru Lal, T/Supervisor, MAXI, Kota,
Department of Telecommunication r/o C-7, Keshavpura, First Choraha,
Kota.

.. Applicant

Versus

1. Union of India through Secretary, Department of Telecommunication, Government of India, New Delhi.
2. The Chief General Manager, Telecom, Rajasthan Circle, Jaipur
3. The Telecommunication District Manager, Kota
4. The Telecommunication District Engineer, Kota (Raj)

.. Respondents

Mr. A.L.Verma, counsel for the applicant

Mr. M.Rafiq, counsel for respondents

CORAM:

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

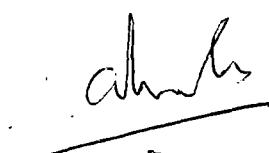
Hon'ble Mr. N.P.Nawani, Administrative Member

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 seeks the following reliefs:-

- i) That since the pay scale of the wireman at the time of appointment of the applicant was Rs. 110-3-131-EB-4-155 the pay scale given to the applicant was only of Mate which was not the post held by the applicant, he is entitled to the pay scale of wireman from the date he was initially appointed on the post of wireman in view of Annex.A3 which prescribes the pay scale for various posts including the post of wireman and mates from 8.1.72 or earlier date.
- ii) and further Revision of pay scales be allowed as when the pay



scales were revised of the said post with all consequential benefits be allowed to the applicant and interest at the rate of 18% per annum on the arrears be also allowed to the applicant.

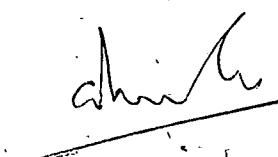
iii) Costs of this application be also allowed to the applicant.

2. We have heard the learned counsel for the parties and have gone through all the material on record.

3. The controversy in this case lies within a narrow compass viz. whether the applicant, on appointment as Wireman vide order dated 5.9.72 (Ann.A1) was wrongly given the pay scale of Rs. 75-95, instead of the scale of Rs. 110-155.

4. On careful consideration of the rival contentions, we do not find any infirmity or mistake in the order dated 5.9.1972 in appointing the applicant as Wireman in the pay scale of Rs. 75-95. For arriving at this finding, we examined the relevant Recruitment Rules (RRs for short) for the post of Wireman in the Department of Communication (P&T Board) as published vide Gazette Notification dated 5.12.1968 (Ann.R2). The RRs held the field at the time of appointment of the applicant in the post of Wireman on 5.9.1972. In the said RRs the pay scale of Rs. 75-1-85-EB-2-95 has been shown against the post of Wireman and it is precisely the same pay scale that was given to the applicant when he was appointed as Wireman on 5.9.1972. It is, therefore, not possible to accept the contention of the applicant that he was given the pay scale of Mate and should have, instead, been appointed in the pay scale of Rs. 110-155.

5. The learned counsel for the applicant strenuously tried to build his case on the basis of Central Civil Services (Revised Pay)

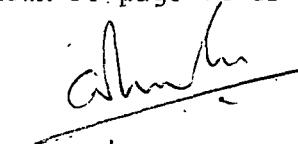


Fifth Amendment Rules, 1973, a copy annexed alongwith Ann.A3. It was contended by him that under Para (c)(i), the post of Wireman is shown at Sl.No.7 and the existing and revised pay scale against this post has been shown as Rs. 110-3-131-EB-4-155 and Rs. 260-6-326-EB-8-350 respectively and, therefore, the applicant, having been appointed as Wireman, should have been appointed in the pay scale of Rs. 110-3-131-EB-4-155 and not in the scale of Rs. 75-1-85-FB-2-95 as shown in his appointment order Ann.A1. He also argued that this Tribunal in its common judgment dated 21.7.2000 in OA Nos.130/1994 and others had held that the applicants therein (similarly placed as the applicant in this OA) were allowed the pay scale of Rs. 260-350 which was the corresponding revised pay scale to the earlier scale of Rs. 110-155 and, therefore, this further strengthen the case of the applicant herein for having been wrongly appointed in the pay scale of Rs. 75-95 in place of the entitled pay scale of Rs. 110-155. We have carefully considered this contention and have also examined the combined order dated 21.7.2000 rendered in OA No.130/1994 and two other OAs.

6. We find that the applicant has not enclosed a copy of the whole Revised Pay Rules of 1973 as part of Ann.A3. We also note that against Wireman the scale of pay of Rs. 110-155 is shown under the head "WORK CHARGED ESTABLISHMENT". We also note that there is also a post of Assistant Wireman in the said Work Charged Establishment in the pay scale of Rs. 85-110 and the scale of Rs. 75-95 is shown against Mate. However, the applicant undisputedly belongs to the main Department and was never seconded to the Work Charged Establishment and, therefore, what pay scale are given to Wireman or for that matter Assistant Wireman or Mate in Work Charged Establishment is of no relevance to the Wireman in the main Department. Further, the RRs as notified in the Official Gazette are statutory rules and what pay scale is given in the RRs has to

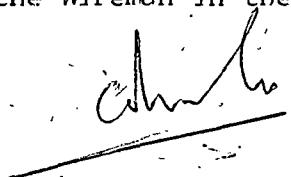
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be taken as pay scale for the post. The pay scale of the Wireman in the Department has been shown as Rs. 75-95 in the RRs and that was the pay scale statutorily fixed for the post of Wireman in the Department and it was Rs. 75-95, which was the correct pay scale for appointment of Wireman in the Department and that the applicant was, therefore, correctly given the same pay scale. There cannot be any difference in the pay scale as shown in the RRs and that shown in the Revised Pay Rules as the existing pay scales for the purpose of equivalence to the revised pay scale. The confusion in this case has been created by the applicant annexing only the pay scale of the Wireman in the Work Charged Establishment in the Revised Pay Rules of 1973 and omitting to annex the portion wherein the same Revised Pay Rules of 1973 show the existing and revised pay scales of Wireman in the main Department. The respondents have, however, annexed the whole Revised Pay Rules of 1973 as part of Ann.R3. We note that the said Rules contain Section 8 - Ministry of Communications, sub-section 4 - Posts and Telegraphs Department and under it there is the group heading, (C) Telegraph Traffic and Telegraph Engineering Branches (starting at page 70 of the Paper Book). The post of 'Wireman' is at Sl.No.75 and the existing and revised pay scales have been shown as Rs. 75-1-85-EB-2-95 and Rs. 210-4-250-EB-5-270 respectively. It is nobodys' case that the applicant was appointed in the Work Charged Establishment, in any case the appointment letter dated 5.9.1972 (Ann.A1) itself carries the title heading "Indian Post and Telegraph Department" and, therefore, we find no reasons at all not to agree with the learned counsel for the respondents that the existing and revised scale shown in the Work Charged Establishment (as annexed by the applicant as part of Ann.A3) are not applicable in the case of the applicant. On careful consideration of the whole matter, we hold that existing pay scale of Wireman in the Posts and Telegraphs Department as shown at page 74 of the Paper Book and internal page



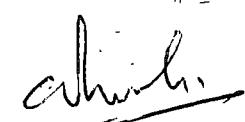
No.5 under the heading Section 8 - Ministry of Communications, Sub-section 4 - Posts and Telegraphs Department, (C) Telegraph Traffic and Telegraph Engineering Branches is the pay scale applicable in the case of the applicant and that is very same as shown in the appointment order in respect of the applicant viz. Rs. 75-1-85-EB-2-95. The applicant was, therefore, rightly appointed as Wireman in the pay scale of Rs. 75-1-85-EB-2-95 vide order dated 5.9.1972 (Ann.A1) and there is absolutely no justification for our interfering with Ann.A1 and issue any directions to the respondents as prayed by the applicant.

7. The learned counsel for the applicant has sought support from the combined judgment/order dated 21.7.2000 rendered in OA No.130/94, Madan Lal and Ors. v. Union of India and Ors., but we are of the considered view that it is of no help to the applicant. We have come to a clear finding that the post of Wireman in the Posts and Telegraphs Department on the date of appointment of the applicant in this OA was in the pay scale of Rs. 75-1-85-EB-2-95 and the applicant was correctly appointed in the said pay scale vide order dated 5.9.1972 (Ann.A1). That a Division Bench of this Tribunal, in which one of us was also a Member, had allowed the pay scale of Rs. 210-270 vide their judgment/order dated 21.7.2000 to the applicants therein cannot extend any help to the applicant in this OA since that judgment was delivered in the background of the facts and circumstances of that case, including the documents filed by the rival parties in the case. In fact the copy of the Central Civil Services (Revised Pay) Rules, 1973 as annexed at Ann.A6 in that case was incomplete with only extracts relating to (i) WORK CHARGED ESTABLISHMENT showing the post of Wireman in Work Charged Establishment in the pay scale of Rs. 110-155 (pre-revised) and Rs. 260-350 (revised). The other part of the very same Rules applicable to the Wireman in the Posts and Telegraphs Department showing the



pre-revised pay scale of Wireman as Rs. 75-95 was not annexed, whereas the applicants both in the OA No.130/94 and the present OA belong not to Work Charged Establishment but the main Posts and Telegraphs Department and the scale applicable to them was Rs. 75-95. Thus, the decision in OA No.130/94 etc. was rendered without the Tribunal having the benefit of said Revised Pay Rules of 1973 in totality and, therefore, the judgment delivered in OA No. 130/94 cannot be applied in the present OA. As mentioned earlier, the relevant RRs also clearly mention that pay scale of Rs. 75-95 for Wireman in the P&T Department. The applicant was thus correctly appointed on 5.9.1972 (Ann.A1) in the pay scale of Rs. 75-1-85-EB-2-95 and no intervention is called for from us.

8. In the result, the OA does not succeed and is accordingly dismissed with no order as to costs.



(N.P.NAWANI)

Adm. Member



(S.K.AGARWAL)

Judl. Member