IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,JAIPUR BENCH,JAIPUR.

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Date of Decision: 18/7/2000

1. OA 45/99

Shiv Shankar Kumawat, Hindi Typist O/o Supdt. of Post Offices, Sikar Postal Division, Sikar.

... Applicant

Versus

1. Union of India through Secretary, Department of Posts, Ministry of Communication, Sanchar Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Supdt. of Post Offices, Sikar Postal Division, Sikar.
4. Post Master, Sikar Head Post Office, Sikar.

... Respondents

2. OA 46/99

J.P.Maken, Hindi Typist O/o Supdt. of Post Offices, Jaipur (M) Postal Division, Jaipur.

... Applicant

Versus

1. Union of India through Secretary, Deptt.of Posts, Ministry of Communication, Sanchar Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Supdt. of Post Offices, Jaipur (M) Postal Division, Jaipur.
4. Post Master, Shastri Nagar Head Post Office, Jaipur.

... Respondents

3. OA 47/99

Om Prakash Bagwani, Hindi Typist O/o Sr.Supdt. of Post Offices, Kota Postal Division, Kota.

... Applicant

Versus

1. Union of India through Secretary, Deptt.of Posts, Ministry of Communication, Sanchar Bhawan, New Delhi.
2. Cheif Post Mastr General, Rajasthan Circle, Jaipur.
3. Sr.Supdt. of Post Offices, Kota Postal Division, Kota.
4. Post Master, Kota Head Post Office, Kota.

... Respondents

4. OA 48/99

Ram Gopal Sutrakar, Hindi Typist O/o Supdt. Postal Stores Depot, Jaipur.

... Applicant

Versus

1. Union of India through Secretary, Deptt.of Posts, Ministry of Communication, Sanchar Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.

3. Sr.Supdt.of Post Offices, Jaipur City Postal Division, Jaipur.

4. Supdt. Postal Stores Depot, Jaipur.

... Respondents

5. OA 59/99

Lalit Kumar Gupta, Hindi Typist O/o Supdt. of Post Offices, Sawai Madhopur Postal Division, Sawai Madhopur.

... Applicant

Versus

1. Union of India through Secretary, Deptt. of Posts, Ministry of Communication, Sanchar Bhawan, New Delhi.
2. Chief Post Master General, Rajasthan Circle, Jaipur.
3. Supdt. of Post Offices, Sawai Madhopur Postal Division, Sawai Madhopur.
4. Post Master, Head Post Office, Sawai Madhopur.

... Respondents

CORAM:

HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER

HON'BLE MR.S.BAPU, ADMINISIRATIVE MEMBER

For the Applicants ... Mr.C.B.Sharma

For the Respondents ... Mr.Hemant Gupta, proxy counsel for Mr.M.Rafiq & K.N.Shrimal

O R D E R

PER HON'BLE MR.S.BAPU, ADMINISTFATIVE MEMBER

A common issue only is involved in these five applications and therefore, they are disposed of by this common order. The reliefs sought in these applications are as follows :-

"i) That the respondents may be directed to produce entire record relating to the case and after perusing the same the letter dated 3.1.99 (Annexure A/1) may kindly be quashed and set aside.

ii) That the respondents be further directed not to reduce the pay of the applicant in lower scale and be allowed to draw pay & allowances in the scale as presently being drawn by him and future in corresponding scales.

iii) That any order passed by the respondents which deprive the applicant in connection with pay & allowances already allowed be quashed.

iv) That the respondents be further directed to allow further promotions which are being allowed to employees running in

similar scales."

2. All the five applicants were appointed as Hindi Typist on different dates during the years 1981 and 1982. Temporary posts of Hindi Typist had been sanctioned in December 1978 and they were retained from year to year subsequently, before formal recruitment rules called Indian Posts and Telegraphs Department (Hindi Translators Grade-I, Grade-II, Grade-III & Hindi Typist) Recruitment Rules, 1983 were notified on 11.1.83. All these Hindi Typists were placed in the pay scale of Rs.260-480 on appointment. They were placed in the pay scale of Rs.975-1660 w.e.f. 1.1.86 pursuant to the recommendations of the Fourth Central Pay Commission. After the receipt of Fifth Central Pay Commission's report, the applicants were placed in the pay scale of Rs.4000-6000 w.e.f. 1.1.96. However, subsequently, the respondents found out the applicants had been wrongly placed in the pay scale of Rs.4000-6000 as in their view the applicants were not entitled to that pay scale. The matter was got examined by the respondents in consultation with the Ministry of Finance, who did not agree to the proposal of granting higher pay scale of Rs.4000-6000 to the applicants over and above what the Fifth Central Pay Commission had recommended as replacement scale for Rs.975-1660. It may be mentioned that the replacement scale recommended by the Fifth Central Pay Commission for Rs.975-1660 was only Rs.3200-4900. This is challenged in the present application.

3. It is the contention of the applicants that right from their appointment they were placed in the pay scale higher than that of Lower Division Clerks (LDCs), that in the year 1987 their posts were merged with those of LDCs in the Circle and Administrative Offices, that they were allowed to compete in the departmental examinations, that the posts of LDCs and UDCs in the Circle Office were replaced by the post of Postal Assistants, that the Postal Assistants were given the benefit of the pay scale of Rs.4000-6000 w.e.f. 1.1.96 and, therefore, they (the applicants) are also entitled to the said pay scale of Rs.4000-6000 and in fact the respondents granted the applicants the benefit of that pay scale but they are withdrawing that benefit pursuant to the impugned order dated 3.1.99.

4. It is their contention that the orders sanctioning lower pay scale of Rs.3200-4900 to the applicants are illegal, arbitrary and unjustified and they violate also Articles 14 and 16 of the Constitution and the applicants ought to be given the pay scale of Rs.4000-6000.

5. The respondents have filed a reply statement. According to them, the

recruitment rules for recruitment of Hindi Typists and Postal Assistants are different and the basic qualifications are also different. Further, the nature of functions is also different. It is stated by the respondents in the reply statement that the Hindi Typists were wrongly allowed the pay scale of Rs.4000-6000 and when the mistake was noticed, it was set right and the impugned order was communicated. It is also their contention that it is the prerogative of the executive to decide on which pay scale the applicants should be placed and that matter cannot be decided by this Tribunal. They have denied the allegation of arbitrariness and illegality on their part in granting the replacement pay scale of Rs.3200-4900 to the applicants.

6. We have heard the learned counsel for the parties and have carefully considered the matter.

7. The applicants were drawing pay in the pay scale of Rs.975-1660 prior to the implementation of the recommendations of the Fifth Central Pay Commission and the replacement scale for this, recommended by the Fifth Central Pay Commission, is S-6 namely Rs.3200-4900. This is what the applicants are entitled to prima-facie. May be the Postal Assistants have been placed on the higher pay scale of Rs.4000-6000, we hold that the applicants have not been able to establish their entitlement to the pay scale of Rs.4000-6000. We are unable to accept their contention that merely because in 1987 their posts were merged with those of LDCs, they become automatically entitled to get the pay scale allowed to the Postal Assistants w.e.f. 1.1.96. Further, as rightly contended by the learned counsel for the respondents, it is within the domain of the government to determine the pay scale applicable to the applicants. The Tribunal has no jurisdiction in this matter. If any authority is required for this proposition, it would suffice to refer to the decision of the Hon'ble Supreme Court in the case of Chief Administrator-cum-Joint Secretary to the Government of India & Another v. Dipak Chandra Das, (1999) 9 SCC 53.

8. As a matter of fact, we have been informed by the learned counsel for the respondents at the time of hearing that the government is examining again the the matter regarding the pay scales of Hindi Typist. He placed before us a copy of the letter dated 12.3.99, which reproduces copy of letter No.7-2/99-PE-II dated 23.2.99 of the Director General (Posts), New Delhi, on the subject of 'Fixation of pay of Hindi Typists as per with the PAs/SAs & huge recoveries'. The letter reads as follows :-

"I am directed to inform you that the matter regarding Pay Scales of

(12)

Hindi Typists working in Divisional Offices is under examination in this Directorate. Therefore no recoveries may be made for the present, recovery of excess payment if any, may be made from salary for the month of March, 1999.

You are requested to take action accordingly."

As the respondents themselves are examining the matter and they have also not proposed to recover the excess payment, if any, so far made, we do not think it necessary and proper to give any direction in the matter.

9. With these observations, these OAs are dismissed. No costs. Interim stay granted and continued stands vacated.

(S.BAPU)
MEMBER (A)

(S.K.AGARWAL)
MEMBER (J)