

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

DATE OF ORDER : 14.5.2002

1. OA No. 218/2001

(i) Sahib Singh son of Shri Gurumukh by caste Sardar aged about 48 years, presently working as T.M. O/o Principal General Manager, Telecom District, Jaipur.

(ii) Satish Kumar Seni son of Shri Radhey Shyam Seni by caste seni aged about 42 year presently working as T.M. O/o Principal General Manager, Telecom District, Jaipur.

(iii) Prahlad Sharma son of Shri H.S. Sharma by caste Sharma aged about 46 years presently working as T.M. O/o Principal General Manager, Telecom District, Jaipur.

(iv) M.H. Siddiki son of Shri M.R. Siddiki by caste Muslim aged about 51 years presently working as a T.M. O/o Principal General Manager, Telecom District, Jaipur.

2. CA No. 219/2001

(i) Ashwani Kumar Gaur son of Shri Ram Bhulawan Gaur aged about 47 years, presently working as T.M. o/o Principal General Manager, Telecom District, Jaipur.

(ii) Latatat Hussain son of Shri Asgar Hussain aged about 52 years, presently working as Wireman in the office of the Principal General Manager, Telecom District, Jaipur.

3. OA No. 220/2001

(i) Laxminarain son of Shri Rodu Ram by caste Dhanka aged about 46 years presently working as T.M. in the office of the Principal General Manager, Telecom District, Jaipur.

(ii) Madan Lal Sharma son of Shri Mangal Chand Sharma by caste Sharma presently working as T.M. in the office of the Principal General Manager, Telecom District, Jaipur.

4. OA No. 221/2001

(i) P.K. Moitra son of Shri K.P. Moitra by caste Moitra aged about 52 years presently working as a Wireman in the office of the Principal General Manager, Telecom District, Jaipur.

(ii) K.K. Mathur son of Shri Kanwar Bihari Mathur by caste Mathur presently working as Wireman in the office of the Principal General Manager, Telecom District, Jaipur.

....Applicants

VERSUS

1. Union of India through the Secretary to the Government of India, Department of Telecom, Sanchar Bhawan, New Delhi...

2. Chief General Manager, Telecom, Rajasthan Circle, Jaipur.

3. Principal General Manager, Telecom District, Jaipur.

...Respondents.

Mr. P.N. Jatti, Counsel for the applicants.

Mr. R.L. Agarwal, Proxy counsel for

Mr. Bhanwar Bagri, Counsel for the respondents.

CORAM

Hon'ble Mr. A.P. Nagrath, Member (Administrative)

Hon'ble Mr. J.K. Kaushik, Member (Judicial)

ORDER

PER HON'BLE MR. J.K. KAUSHIK, MEMBER (JUDICIAL)

The cause of action in all these four OAs is based on similar question of facts & law with identical prayer. Thus we are deciding all these OAs through a single order. All the applicants have prayed for identical reliefs, which are as under :-

- (i) That, by a suitable writ/order or directions, the respondents be directed to allow the pay scale of Rs. 260-350 of Wireman (Revised from time to time) with effect from the date of the appointment with all the consequential benefits including pay fixation and the arrears of Salary alongwith interest.
- (ii) Any other relief which the Hon'ble Tribunal deems fit.

2. The brief facts of the cases are that the applicants were appointed in the Department of Posts & Telegraph as a Wireman on various dates in the years 1969 to 1981. They continue to work on the said post in Telecom Department. They have averred that they are entitled for the pay scale of Rs. 260-350 meant for the post of post of Wireman but have been allowed the pay scale of Rs. 210-270. They have referred to the judgement of this Bench in OA No. 163/90 decided on 12.8.1993 and another decision dated 13.4.2000 in OA No. 286/96. Mahesh Chand vs. Union of India & Others (Annexure A/8); Further it has been averred that in Work Charge

Establishment of the CPWD, the post of Wireman carries the pay scale of Rs. 260-400. There is another post of Assistant Wireman which carries the pay scale of Rs. 210-290. Further the ground has been taken that the applicants are performing the identical duties with that of CPWD. They are entitled to get the pay scale of Rs. 260-400 but they have not been allowed the same. They submitted representations which did not yield any fruitful results. Hence these OA.

3. Show cause notices were issued in all these OA on 1.6.2001. The respondents have filed the detailed reply and have controverted the question of facts and law raised in the OAs. The respondents have referred a judgement dated 23.3.2001 in OA No. 377/98 Madan Lal Kumawat vs. Union of India & Others passed by this Tribunal and have averred that applicants have no case and the OAs deserve to be dismissed.

4. The cases were listed for direction. Learned counsel for both the parties agreed for final arguments in these matters. Therefore, all these matters were taken up for final hearing.

5. We have heard the learned counsel for the parties and have gone through the records of the cases.

6. The learned counsel for the applicants has submitted that all the applicants were initially appointed in the Department of Post & Telegraph on the post of Wireman but their pay scale was mentioned as 210-270 instead of the actual scale of Rs. 260-350 meant for the post of Wireman. Our attention was invited towards the recruitment rules meant for the post of Wireman in the CPWD Department as well as to the Department of Posts. It has been argued that case of the applicants is fully covered by the judgement dated 13.4.2001 in OA No. 286/95 Mahesh Chand vs. Union of India & Others. We have gone through the judgement. The judgement relates to

persons holding the post of Wireman in the Department of Posts. Our attention was invited towards Para 7 of the judgement wherein it has been stated :

"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 equated to Rs. 260-350."

7. The contention of the applicant is that applicants belongs to Telecom Department. They should be given pay fixation of Rs. 260-350 in view of the position settled by this Hon'ble Tribunal in case of persons employed on the post of Wireman in sister department of Posts.

8. On the other hand, the learned counsel for the

respondents have drawn our attention to the judgement dated 23.3.2001 in OA No. 377/98, Madan Lal Kumawat Vs. Union of India & Others (Annexure R/1), wherein an identical question of assignment of pay scale of the person holding the post of Wireman in the Department of Telecom has been dealt with in detail. In the judgement, it has been brought out that the existing and revised scale shown in the work Charged Establishment are not applicable in the cases of the applicants in those OAs. The post of Wireman has been said to be at sl. No. 75 and existing and revised pay scales have been Rs. 75-95 and Rs. 210-270 respectively. The learned counsel for the respondents have averred that in the present case, applicants were also appointed in Indian Post Telegraph Department. Thus they belong to the main department and not to the Work Charged Establishment. We also find that none of the applicants belong to work Charged Establishment. The learned counsel for the respondents has further taken us to Para 7 of the judgement in OA No. 286/95 Mahesh Chand vs. Union of India & others (supra) and drawn our attention that the scale provided therein are for work charged Establishment and not for the main Department. The scale for the main department have been examined by this Hon'ble Tribunal in judgement dated 23.3.2001 (supra) (Annexure R/1) being relied by them.

9. We have carefully gone through the judgement and find that the judgement in Mahesh Chand's case (OA No. 286/95) (Annexure A/8) is distinguishable on the facts in as much as the pay scales meant for the work charged Establishment were taken into account. The matter relating to the Wireman in the main department and the work charged establishment was not in question. While deciding the said case, this Hon'ble Tribunal perhaps might have moved on the premises that the pay scale in the worked charged establishment and that of the main department for the post of Wireman were identical. As per the law of precedent, a judgement is a precedent on the point raised and decided. Thus the judgement in Mahesh Chand's case cannot be applied in this case. But in the case of Madan Lal Kumawat, the correct position of the Rules was

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brought to the knowledge of this Tribunal and the matter has been adjudicated upon and has been specifically held that the pay scale relating to work charged Establishment have no application to the pay scales prescribed for the post of Wireman in the main department. Thus we have no hesitation in following the judgement in Madan Lal Kumawat in OA No. 377/98 (supra) which especially deals with the case of wireman in the main department and that too in the department of telecom to which the applicants also belonged

10. As regards the comparision of the duties, recruitment qualification, responsibilities, other details required for equating the post vis-avis another post in other Organisation especially that of Wireman in Department of CPWD, there is no specific pleadings to that effect. The requisite material has not been placed on record of this case for making the comparison between wireman of Telecom Department vis a vis wireman of CPWD. There is no material brought out to indicate any hostile discrimination.

11. We are also conscious of the various decisions of the Hon'ble Apex Court as well as the Hon'ble Tribunal that relate to fixation of pay scale. It is for the expert bodies and not for the Tribunals to allow particular pay scale. The matter regarding pay fixation also dealt in the case of General Secretary MES Employees Union vs. Union of India & Others reported in Full Bench judgement 1997-2000 (Mumbai) 147 wherein reliance has been placed on judgement of Hon'ble Supreme Court Union of India vs. P.V. Hariharan 1997 SCC (L&S) 838. Para 5 is relevant and contents of the same are reproduced as under :

We have noticed that quite often the Tribunals are interfering with pay scales without proper reasons and without being conscious of the fact that fixation is not their function. It is the function of the Government which normally acts on the recommendations of a Pay Commission. Change of pay scale of a ~~man~~

category has a cascading effect. Several other categories similarly situated as well as those situation above and below, put forward their claim on the basis of such change. The Tribunal should realise that interfering with the proscribed pay scales is a serious matter. The Pay Commission, which goes into the problem at great depth and happens to have picture before it, is the proper authority to decide upon this issue. Very often, the doctrine of "equal pay for equal work" is also being misunderstood and misapplied, freely revising and enhancing the pay scales across the board. We hope and trust that the Tribunals will exercise due restraint in the matter. Unless a clear case of hostile discrimination is made out, there would be no justification for interfering with the fixation of pay scales."

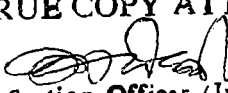
12. Keeping in view of the aforesaid position of the law, we would otherwise also be restrained from giving any verdict as regards to the grant of particular pay scale for any post. Thus we are not inclined to grant any relief to the applicants in the present OA on any count. Therefore, we pass the order as under :-

"Seen in all their complexcities, these OAs are without any merit and the same are hereby dismissed. Parties are left to bear their own costs."

(J.K. KAUSHIK)  
MEMBER (J)

(A.P. NAGRATH)  
MEMBER (A)

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**TRUE COPY ATTESTED**  
  
Section Officer (Judicial)  
Central Administrative Tribunal  
Jaipur Bench, JAIPUR  
