

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A/T.A No. 109/2005

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SECTION OFFICER (Judl.)

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI**

Original Application No: _____ of 2016

(Under section 19 of the Administrative Tribunal Act, 1985)

1. Jitendra Malakar. Aged about _____ Years
S/O Padma Ram Malakar
Posted as Junior Accountant, Brahmaputra Board,
Guwahati.

..... **APPLICANT**

-VERSUS-

1. The Union of India through the Secretary, Ministry of Water Resources, Shram Shakti Bhawan, Rafi Marg, New Delhi- 110001.
2. The Ministry of Water Resources, through its Secretary, Shram Shakti Bhawan, Rafi Marg, New Delhi- 110001.
3. The Ministry of Finance, through its Secretary, Department of Expenditure (Implementations Cell), North Block, New Delhi – 110001.
4. The Brahmaputra Board, through its Chairman, Basistha, Guwahati - 29

..... **RESPONDENTS**

FORM NO. 4
(SEE RULE 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. 109/05

Misc. Petition NO.

Contempt petition No.

Review Application No.

Applicants. K. C. Swain

Respondents. U. O. Das

Advocates for the Applicant. M. Chanda, G. N. Chakraborty, S. Nath

Advocates of the Respondents. Case.

Notes of the Registry

Dated

Order of the Tribunal

This application is in form
is filed/C.F. for Rs 50/-
deposited vide P.D.
No. 206/160888
Dated 18.5.05

25.5.2005

present: The Hon'ble Mr. K. V. Prahladan,
Administrative Member.

Heard Mr. M. Chanda, learned counsel for
the applicant. Ms. U. Das, learned Addl. C.G.S.C.
is present on behalf of the respondents.

Issue notice on the respondents to show
cause as to why this application shall not be
admitted, returnable by six weeks.

List on 11.7.2005.

Member

bb

11.7.05.

Ms. U. Das, learned Addl. C.G.S.C. submits
that the Respondents have filed their show
cause reply. The learned counsel for the
applicant submits that the case be posted
alongwith other similar case 110/04 after
four weeks.

Post the matter on 10.8.05.

Member

Vice-Chairman

Steps taken
on resp No-30/5/05.

Notice & order
sent to D/section
for issuing to
resp. Nos. 1 to 4
by regd. A/D post.

le
30/5. D/No= 859
to 862
Dt= 30/5/05.

lm

(2)

O.A. 109/2005

10.8.2005

Mr. M. Chanda, learned

counsel for the applicant submits that this case can be posted for hearing and that the applicant will file rejoinder, in the meantime.

Post on 12.9.2005.

Show cause reply
Submitted by the
respondent against
the OA filed by
the applicant.

Member

Vice-Chairman

mb

12.9.2005

No Division Bench is available.
Post before the next Division Bench.

My
8.7.05

Notice duly
served on
resp No - 4.

bb

7.10.2005

Learned counsel for the parties
submits that this case may be taken
after the vacation. Post on 24.11.05.

25/7/05

Member

Vice-Chairman

bb

① Show cause reply
filed by the respondent

My
9.8.05

No Rejoinder has
been filed.

My
9.9.05

3.10.05

W/S filed by the
respondents.

No Rejoinder has
been filed.

My
6.10.05

(3)

OA 109/05

24.11.2005

Post before the next Division

Bench.

23.11.05

No reply has been
fild.

NS
23.11.05

[Signature]
Vice-Chairman

mb

9-3-06

Heard counsel for the parties. Hearing
concluded. Judgment delivered in open Court,
kept in separate sheets.

The O.A. is disposed of in terms of the
order. No order as to costs.

8.3.06

Rejoinder submitted
by the Applicant.

Vice-Chairman (J)

Vice-Chairman (A)

pg

Case is ready for hearing.

NS
8.3.06

20.3.06

Copy of the
report has been
sent to the D/Sec.
for issuing the
line to the applicant
as well as to the
Addl G.S.C. for the
respn.

Received
Alsha Das
Addl CUSC
21/03/06

10.5.06

The date of the
representation has been
corrected as 27.7.04
instead of 27.9.04 vide
order passed on 5.5.06
and in M.P. 37/06.
on the original order
(Page No. 3)

Received
Alsha Das
Addl CUSC
10/5/06

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. No. 109 & 110 of 2005

DATE OF DECISION 09.03.2006

Md. K. C. Swain & another

..... Applicant/s

Mr.M.Chanda

..... Advocate for the
applicant/s.

- Versus -

U.O.I. & Ors.

..... Respondent/s

Miss. Usha Das, Addl. C.G.S.C

..... Advocate for the
respondents

CORAM

THE HON'BLE MR B. N. SOM, VICE CHAIRMAN (A)

THE HON'BLE MR. K.V. SACHIDANANDAN, VICE CHAIRMAN (J)

1. Whether reporters of local newspapers
may be allowed to see the Judgment ? Yes/No
2. Whether to be referred to the Reporter or not ? Yes/No
3. Whether to be forwarded for including in the Digest
Being complied at Jodhpur Bench ? Yes/No
4. Whether their Lordships wish to see the fair copy
of the Judgment ? Yes/No

Vice-Chairman (A)/(J)

9/3/06

b

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application Nos. 109 & 110 of 2005.

Date of Order: This the 9th day of March 2006.

THE HON'BLE SHRI B.N.SOM, VICE CHAIRMAN (A)

THE HON'BLE SHRI K.V.SACHIDANANDAN, VICE CHAIRMAN (J)

Shri K.C.Swain, (O.A.No. 109/2005)
Son of Shri Syama Sundar Swain,
Assistant Field Officer,
(Telecommunication Cadre),
O/o the Special Bureau,
Govt. of India,
Gangtok, Sikkim ... Applicant

Shri Simul Datta, (O.A. 110/2005)
Son of Shri Dilip Kumar Datta,
Of 171 Mushunda (West)
New Barrackpore North,
24 Parganas, West Bengal
PIN - 700131, In the capacity
of Assistant Field Officer,
(Telecommunication Cadre)

By Advocate Shri M. Chanda.

- Versus -

1. Union of India
Service through the
Secretary (R & AW)
Cabinet Secretariat
Government of India,
Room No.7, Bikaner House (Annexe)
Shahjahan Road,
New Delhi-110011.
2. The Joint Secretary (PERS)
Cabinet Secretariat,
Govt. of India,
Room No. 7,
Bikaner House (ANNEXE)
Shahjahan Road,
New Delhi-110011.
3. Director (Pers)
Cabinet Secretariat,
Govt. of India,
Room No. 7,
Bikaner House (ANNEXE)
Shahjahan Road,

New Delhi-110011.

4. Deputy Commissioner,
Special Bureau
Government of India,
Raj Bhawan Area,
Gangtok, Sikkim
Pin - 737103.
5. Deputy Commissioner (TELE)
Special Bureau,
Government of India,
B.K. House, T.P.Road,
Agartala, Tripura,
Pin 799001.

... Respondents

By Miss Usha Das, Addl.C.G.S.C.

ORDER (ORAL)

SACHIDANANDAN K.V (V.C.,J)

These two applications involve similar questions of facts and law, hence we have heard and dispose of both the applications by this common order by consent.

2. The applicants are working as Assistant Field Officer (T) in the department of Special Bureau, Government of India. Their grievance is that the cadres of Assistant Technical Officer and Technical Officer are discharging similar duties and responsibilities. The nature of works/functions/duties and level of responsibilities of DFOs (T) and AFOs(T) are also same and equal. Shift system of duties are followed for both AFOs (T) & DFOs(T) and that other service conditions are also same. The applicants pray for the benefit of pay parity at par with DFO(T) in the scale of Rs.5500-175-9000 instead of Rs.4000-100-6000/- and also other service benefits as par with DFO(T) from the date of their initial appointment in the manner as was granted to the erstwhile ATO. Failing to get relief they have approached this Tribunal by these applications. Their claim was rejected by Annexure-D order dated 27.9.2004. Again

they have made representation dated 28.2.05 to the Cabinet Secretary, Government of India, respondent No.1.

3. The respondents have filed a detailed written statement controverting the claim of the applicants. Mr M.Chanda, learned counsel for the applicant submitted that during the pendency of this application he had received a communication dated 2.5.2005 with reference to his representation dated 28.2.2005 and the Cabinet Secretary has informed "that the matter is under consideration with Hqrs and further communication would follow in due course." Therefore, he will be satisfied if a direction is given to the respondents to take a decision expeditiously and the O.A can be closed. Miss U. Das, learned Addl.C.G.S.C satisfied that she has no objection in disposing the matter. Taking confidence of the assurance given by the respondents the learned counsel for the applicants submitted that the applicants will be satisfied if a direction is given to the first respondent or any other competent authority to consider the claim of the applicants. This was done by the Calcutta Bench of the Tribunal in disposing of the O.a.418/2004 dated 8.6.2004.

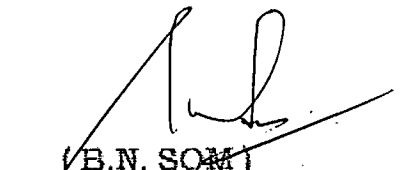
4. On perusal of the records submitted by the applicants and taking in to consideration the said letter dated 2.5.2005 and also the decision rendered by Calcutta Bench of the Tribunal we are of the view that ends of justice will be met if a direction is given to the Respondents to consider the claim of the applicants in accordance with law. Accordingly we direct the respondent No.1, or any other competent authority as directed by **abd 28.7.2004** him to consider and dispose of the representations dated 27.7.2004 of the applicants in terms of the Memorandum dated 2.5.2005 communicated to the applicants within a time frame of 4 months from the date of receipt copy of this order. As an abundant caution the applicants are also

directed to send a copy of this order and O.A/Annexure copies to the said respondent within 3 weeks from today.

O.A is disposed off. Accordingly in the circumstances no order as to cost.



(K.V. SACHIDANANDAN)
VICE CHAIRMAN (J)


(B.N. SOM)
VICE-CHAIRMAN(A)

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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI**

O.A. No. 109 /2005

Sri K.C Swain.

-Vs-

Union of India & Ors.

LIST OF DATES AND SYNOPSIS OF THE APPLICATION

12.10.1992- Applicant was initially appointed as Assistant Field Officer (for short AFO (T) in Telecommunication cadre in the department of Special Bureau.

me 08.06.2004- ~~One Shri K.C. Swain,~~ ^{Applicant -} similarly situated AFO (T) filed O.A. No. 418/2004 before the CAT, Kolkata Bench with similar prayer. The CAT, Kolkata Bench disposed of the said O.A with liberty to submit detail representation. The applicant being similarly circumstanced submitted a detail representation to the respondents. (Annexure-A).

07.11.2003- Respondents vide memorandum dated 07.11.03 denied the benefit of pay scale of Rs. 5500-9000 to the applicant. (Annexure-C)

28.07.2004- Applicant being similarly situated submitted a detailed representation in terms of the direction contained in the above mentioned order dated 08.06.04 through proper channel addressed to the respondent Nos. 1 and 2. (Annexure-B)

29.09.2004- Respondents vide their reply memorandum dated 29.09.04 denied the claim of the applicant for pay scale/promotion and/or benefits in service for AFO (T) at par with DFOs (T). (Annexure-D)

28.02.2005- Applicant submitted representation addressed to the Respondent No. 1. (Annexure-E)

25.05.2001- Respondents issued notification dated 25.05.01, wherein the respondents Union of India extended the same pay scale to Assistant Technical Officer

as well as to the Technical Officer only on consideration to the fact that both the cadres of Assistant Technical Officer and Technical Officer are discharging similar duties and responsibilities. Applicant being similarly situated and discharging the similar duties and responsibilities of DFO (T) entitled to the scale of pay of Rs. 5500-9000, which is allotted to Deputy Field Officer (T).

Hence this application before this Hon'ble Tribunal.

PRAYER

RELIEF (S) SOUGHT FOR:

Under the facts and circumstances stated above, the applicants humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

1. To direct the respondents to cancel, withdraw and/or rescind the aforesaid impugned memorandum dated 29.09.2004, being Annexure 'C' hereof.
2. To direct the respondents to pay your applicant the service benefits on a par with DFO (T) from the date on 12.10.1992 as on when the applicant joined in this organisation as AFO (T) [i.e. from the joining date on 12.10.1992 your applicant to be paid the salary in the scale of pay Rs. 5500-175-9000 instead of Rs. 4000- 100 - 6000 and your applicant to be promoted to the rank of FO (T) instead of DFO(T) and as such all the service benefits including ACP to be paid to your applicant on at par with DFO(T).
3. To direct the respondents to produce entire records of the case including the records of the observations/ reports of the Tele-Communication Cadre Review Committee and the records of the following copies /office records from the date on 12.10.1992 as on when the applicant joined in this organisation as AFO(T), for adjudication of the points at issue :

- 12
- 1) Copies of the Daily Station Diary wherein duties /works /responsibilities as performed by AFOs(T)/DFOs(T) are made entry for office-records.
 - 2) Copies of the DTRs which also evidence that nature of works/ functions/ duties and level of responsibilities of DFOs (T) and AFOs (T) are same and equal.
 - 3) Copies of the Duty Roster wherein Morning or Afternoon or Night or General-Shift duties as assigned for AFOs (T)/DFOs (T) are mentioned.
 - 4) Copies of the Monthly Merit list wherein records of Monthwise output of the Duties/ Responsibilities as done by AFOs (T) & DFOs(T) are mentioned.
 - 5) Copies of the latest Seniority List of AFOs (T) which indicates numbers of AFOs(T) working in this Organisation is about 250.
 - 6) Copies of the latest Seniority List of DFOs (T) which indicates numbers of DFOs (T) working in this Organisation is about 800.
 - 7) Book of R&AW (Recruitment, Cadre and Service) Rules AFO (T).
 - 8) Book of our Departmental Standing Orders.
-
4. That the Hon'ble Tribunal be pleased to declare that the applicant is entitle to the benefit of pay scale of Rs. 5500-175-9000 instead of 4000-100-6000 at par with DFO (T) and other similar service benefits at par DFO(T) from the date of initial appointment to the applicants, in the manner it as granted to the erstwhile ATO.
 5. That the respondents be directed to enlarge the quota of promotion to the extent of 80% in the cadre of FO(T) to the cadre of AFO(T), in the light of the decision rendered by the Department in the cadre of ATO
 6. Cost of the application.
 7. And to pass such further or other Order or Orders and/or Direction or Directions as to this Hon'ble Tribunal may deem fit and proper.

INTERIM ORDER, IF ANY, PRAYED FOR :

Pending final decision on the application, the applicant seeks issuance of the following Interim Orders: -

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- (a) An injunction do issue restraining the respondents from giving any effect or further effect to the said impugned memorandum dated 29-09-2004.
 - (b) An injunction do issue restraining the respondents from filling up the vacant posts of FO (T) on promotion from the staff members of DFO(T), who joined in this oraganisation directly as DFO(T), whose seniority date is on or after the date of seniority of your applicant on 15.06.1991.

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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI**

(Application under Section 19 of the Administrative Tribunals Act, 1985)

Title of the case : O. A. No. 109 /2005

K. C. SWAIN :Applicant

-VS-

UNION OF INDIA & ORS. : ... Respondents

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04.	B	Copy of the representation dated 27.07.04.	26 - 32 .
05.	C	Copy of memorandum dated 07.11.03.	- 33 -
06.	D	Copy of the memorandum dated 27.09.2004, issued by the respondents against which the applicant files this application.	34 - 37 .
07.	E	Copy of the representation dated 28.02.2005 submitted by the applicant.	-38-
08.	F	Copy of the notification dated 25.05.2001.	-39-

Date: 16.05.05

Filed by:
S. S. Math.
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

O. A. NO. 109 of 2005.

BETWEEN:-

Shri K. C. SWAIN

S/o- Shri Syama Sundar Swain

Assistant Field Officer

(Telecommunication Cadre),

O/o- The Special Bureau

Govt. of India,

Gangtok, Sikkim.

.....Applicant.

-VERSUS-

- 1) Union of India
Service through the
Secretary (R& AW),
Cabinet Secretariat
Government of India
Room No. 7, Bikaner House (ANNEXE)
SHAHJAHAN ROAD,
NEW DELHI -110011.
- 2) The Joint Secretary (PERS),
Cabinet Secretariat
Govt. of India
Room No. 7,
Bikaner House (ANNEXE)
SHAHJAHAN ROAD,
NEW DELHI -110011.
- 3) Director (Pers),
Cabinet Secretariat
Govt. of India

Kailash Chandra Swai

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Filed by applicant
through
Substantive
Advocate

Room No. 7,
Bikaner House (ANNEXE)
SHAHJAHAN ROAD,
NEW DELHI -110011.

- 4) Deputy Commissioner
Special Bureau
Government of India
Raj Bhawan Area
Gangtok, SIKKIM
PIN - 737103.

.....Respondents.

DETAILS OF APPLICATION

1. PARTICULARS OF ORDERS AGAINST WHICH THIS APPLICATION IS MADE:

The applicant begs to move this application against the memorandum of No. 1/5/04/Pers.3-12005 dated 27.09.2004 (herein Annexure 'C') wherein grievance application dated 27.07.2004 of the applicant has been rejected and wherein the respondent concerned has repeatedly denied that nature of works/functions/duties and level of responsibilities for DFOs (T) and AFOs (T) are same and equal.

The impugned memorandum dated 27.09.2004, against which the applicant files this application, was communicated to the applicant by the Respondent No. 3, in reply to the grievance application dated 27.07.2004 (herein Annexure 'B') which was submitted by the applicant through proper channel addressed to the Respondent Nos. 1 and 2, in compliance with the direction contained in the order (herein Annexure 'A') passed by the Hon'ble Tribunal, Kolkata Bench on 08.06.2004 in the matter of O.A. of No.418/2004 and/or in the matter of AFO(T).

Kailash Chandra Swain

The followings copies/office-records substantiate that nature of works/functions duties and level of responsibilities for DFOs(T) and AFOs (T) are same and equal :-

- a) Copies of the Daily Station Diary wherein duties/works responsibilities as performed by AFOs (T)/DFOs (T) are made entry for office-records.
- b) Copies of the DTRs which also evidence that nature of works/functions/ duties and level of responsibilities for DFOs (T) and AFOs (T) are same and equal.
- c) Copies of the Duty Roster wherein Morning or Afternoon or Night or General-Shift duties as assigned for AFOs (T) /DFOs(T) are mentioned.
- d) Copies of the Monthly Merit list wherein records of Monthwise output of the Duties /Responsibilities as done by AFOs(T) & DFOs(T) are mentioned.
- e) Copies of the latest Seniority List of AFOs(T) which indicates numbers of AFOs(T) working in this Organisation is about 250.
- f) Copies of the latest Seniority List of DFOs (T) which indicates numbers of DFOs (T) working in this Organisation is about 800.
- g) Book of R& AW (Recruitment, Cadre and Service) Rules.
- h) Book of our Departmental standing Orders.

Through his representation (herein Annexure 'D') dated 28.02.2005, the applicant has earnestly requested to supply the above-mentioned copies.

But till date the respondents concerned do not supply the above-mentioned copies to the applicant and for while the applicant cannot enclose the above-mentioned copies with this application.

This application is, therefore, moved before this Hon'ble Tribunal so that the material facts and factors of this case can come out for redressal of the said grievance of the applicant in accordance with law.

Kailash Chandra Swain

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2. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

3. LIMITATION:

The applicant further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE:

4.1 That your applicant is a Citizen of India and holds a Civil post within the meaning of Articles 311 of the Constitution of India. Applicant is presently working as Assistant Field Officer (T) (in short AFO) in the office of the Special Bureau, Govt. of India, Gangtok, Sikkim.

4.2 That Your applicant states that the Hon'ble Tribunal Kolkata Bench passed an order on 08.06.2004 in the matter of the said grievance of AFOs (T) / O.A. being No. 418/2004, inter alia to the following effect:

"5. However, the applicant is at liberty to file a detail representation highlighting all his grievances before the respondent Nos. 1 and 2 enclosing copies of relevant circulars/office orders/decisions on which the applicant relies upon in support of his claim, within a period of 6 weeks from today. In case such representation is filed, the respondent Nos. 1 and 2 are directed to consider the said representation and dispose of the same by passing a reasoned and speaking order, within a period of 2 months from the date of receipt of such representation. It is made clear that we have not gone into nor observed anything on the merits of the case. After disposal of the representation, in case the applicant has any further grievance in the matter or

Kailash Chandra Swain

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if he is any way aggrieved by the decision of the concerned authorities, he is at liberty to approach the appropriate forum for redressal of his grievances in accordance with law."

A copy of the above-mentioned Order dated 08.06.2004 is annexed hereto and marked as Annexure 'A'.

4.3 That Your applicant states that in compliance with the direction contained in the above-mentioned Order dated 08.06.2004, your applicant submitted, through proper channel, his grievance application dated 27.07.2004, addressed to the respondent Nos. 1 and 2, inter alia to the following effect: -

"2. My respectful submission hereunder is for favour of a kind perusal and sympathetic consideration of Your Honour, please:-

- 1) I was appointed as Assistant Field Officer in Telecommunication cadre (hereinafter' AFO(T), in Rs.1320-30-1560-EB-40-2040(pre- revised scale of Pay) vide office order dated 05-04-1993 and was posted at Special Bureau, Jammu Kashmir where I joined on 03-05-1993 in this Organisation.
- 2) I am presently working at special Bureau, Gangtok, Sikkim.
- 3) I shall complete 12 years of my service to this organisation as AFO (T) on 02.05.2005 and as such A.C.P. for this applicant will be effective from the next date of increment on 1st May, 2005.
- 4) Since my joining day on 03-05-1993 in this Organisation, I have been performing the duties of Deputy Field Officer of Tele -Communication Cadre (hereinafter' DFO (T).
- 5) In this Organisation both AFO (T) and DFO (T) have been performing the duties of same and equal nature of works.

Kailash Chandra Swain

- 6) In this Organisation both AFO (T) and DFO (T) have been carrying out the same nature of works and equal responsibility.
- 7) Since both AFO(T) and DFO(T) perform same and equal nature of works, Superior Officers assess the quality and standard of performance of both AFO(T) and DFO(T) placing them in the same Merit List.
- 8) AFO(T) and DFO(T) have been performing the duties within the same Roster.
- 9) From the joining day in this Organisation, AFO (T) starts performing the said duties in the practical work fields and receive salary in the scale of pay Rs.4000-100-6000 (i.e. Revised of pay as per CCS (Revised Pay Rules), 1997).
- 10) The directly recruited DFO (T) are placed under training at the Training centre for the period of Ten months, to be acquainted with the said duties
- 11) After completion of the said ten months training the DFOs (T) are posted to the practical work fields to perform the said duties and functions as are being performed by the AFOs (T).
- 12) From the joining day at service in this Organization directly recruited DFO (T) can not perform the said duties in the practical work fields but receive salary in the scale of pay Rs. 5500-175-9000 (i.e. Revised scale of pay as per CCS (Revised Pay) Rules, 1997) from the joining day in this organization.
- 13) In this Organization, AFO (T) is promoted to DFO (T) and DFO (T) promoted to FO (T). Post of DFO (T) is a Group - B post and post of

Kailash Chandra Swain

AFO (T) is a Group - C post.

- 14) While on the subject it needs to be illustrated here another similar case of "Equal pay for Equal work " that held with the Assistant Technical Officers (hereinafter 'ATO') who are working in this Organisation in Telc-Communication Cadre .
- 15) Earlier, the scale of Pay for ATO and Technical Officer (hereinafter 'TO') was not same.
- 16) Earlier, ATO would be promoted to the post of TO and TO would be promoted to the post of Under Secretary.
- 17) In this Organisation both ATO and TO carry out same nature of works and equal responsibility.
- 18) The benefits for ATOs (i.e. Scale of pay/ Promotion/ACP and others), as claimed by the ATOs , have been approved at par with TOs.
- 19) Presently, scale of pay for ATO and TO is same and both ATO and TO are promoted to the post of Under Secretary.
- 20) On the principle Of "Equal pay for Equal work " the claim of ATOs, Gazetted Officers, as mentioned hereinabove, has been approved at par with TOs but on the similar principle of " Equal pay for Equal work ", the claim of AFOs (T), Non-Gazetted Officers-, as mentioned hereinabove, has not been recommended and/or approved at par with DFOs (T).
- 21) In compliance with the direction contained in the memorandum-dated 19.09.2003, I submitted my grievance application in the above matter through proper channel finally on 29.09.2003.
- 22) Through the memorandum dated 07.11.2003, it is intimated that the

Kailash chandra saini

matter, regarding scale of pay for AFO (T) in Rs. 5500-175-9000 instead of Rs. 4000 - 100 - 6000 and AFO(T) to be promoted to the rank of FO(T) instead of DFO(T), has been examined under Circular No.7/1/2002-WR-Tele-3915 dated 18.04.2003.

- 23) In this context I beg to state that there is no such type of order or memorandum being No. 7/1/2002-WR-Tele-3915 dated 18.04.2003, has ever been circulated in our Department.
- 24) Through the general circular being memorandum No. 7/1/2002-WR-Tele-3915 dated 18.04.2002, it has been stated that a large number of representations, have been received from AFOs (T) posted at outstations and Hqrs., requesting for revision of Pay Scale on the line of pay scale in MHA and other organisations like Police Wireless.
- 25) Through my above-mentioned grievance application, I sought for revision of Pay Scale/ Promotion Status and/or benefits on a par with DFOs (T), as because of in this Organisation - Tele Communication Cadre-. from the joining date in service, AFOs (T) have been performing the duties and functions as are being performed by the DFOs (T).
- 26) Through my above-mentioned grievance application, I sought for revision of pay Scale/ promotion status and/or benefits on a par with DFOs (T) who are working in our Telecommunication Cadre of this same Organization.
- 27) Through my above-mentioned grievance application, I sought for revision of pay scale/ promotion status and/or benefits, but never on the lines of other Organizations.

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A copy of the above-mentioned grievance representation dated 27.07.2004 and a copy of the memorandum dated 07.11.2003 are annexed hereto and marked as Annexure-'B' and 'C' respectively.

4.4 That your applicant beseech upon Your Lordships that the facts and circumstances of this case may kindly be thoroughly examined whether the benefits in service (i.e. Scale of Pay /promotion/ACP and/or others) for AFOs (T) may kindly be considered on a par with DFOs(T) since in this organisation Tele Communication Cadre, AFOs (T) have been performing the duties and functions as are being performed by DFOs(T)."

4.5 That your applicant states that the above-mentioned grievance application dated 27.07.2004 has been rejected by the respondents concerned vide their reply memorandum dated 27.09.2004 wherein they have repeatedly denied that nature of works /functions /duties and level of responsibilities for DFOs (T) and AFOs (T) are same and equal.

A copy of the above-mentioned memorandum dated 27.09.2004 is annexed hereto and marked as Annexure- ' D'.

4.6 That your applicant states that with reference to the above-mentioned memorandum dated 27.09.2004, he submits through proper channel his representation dated 28.02.2005, addressed to the Respondent No. 1, inter alia to the following effect: -

" 2. The followings copies/records substantiate that nature of works/ functions /duties and level of responsibilities of DFOs(T) and AFOs(T) are same/equal:-

a) Copies of the Daily Station Diary wherein duties/works/

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responsibilities as performed by AFOs (T)/DFOs (T) are made entry for office-records.

- b) Copies of the DTRs, which also evident that nature of works/ functions/duties and level of responsibilities for DFOs (T) and AFOs (T) are same and equal.
- c) Copies of the Duty Roster wherein Morning or Afternoon or Night or General-Shift duties as assigned for AFOs (T) /DFOs (T) are mentioned.
- d) Copies of the Monthly Merit list wherein records of Month wise output of the duties/Responsibilities as done by AFOs(T) & DFOs(T) are mentioned.
- e) A copy of the latest Seniority List of AFOs (T) which indicates numbers of AFOs (T) working in this Organisation is about 250.
- f) Copies of the latest Seniority List of DFOs (T) which indicates numbers of DFOs (T) working in this Organisation is about 800.
- g) Book of R&AW (Recruitment, Cadre and Service) Rules.
- h) Book of our Departmental standing Orders.

3. I, therefore, beseech upon Your Honour that I may kindly be supplied the above-mentioned copies (as mentioned in Para 2. of this representation) which are required to approach the appropriate forum for redressal of my grievance (in the above-mentioned matter) in accordance with Law, as direction given in the Order dated 08.06.2004 passed by the Hon'ble Tribunal, Kolkata in the matter of O.A. of No.418/2004."

A copy of the above-mentioned representation dated 28.02.2005 is

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annexed hereto and marked as Annexure-'E'.

- 4.7 That your applicant states that till date respondents concerned do not supply to the applicant the above-mentioned copies which substantiate that nature of works/functions /duties and level of responsibilities of DFOs (T) and AFOs (T) are same and equal.
- 4.8 That with reference to the para 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 of the above-mentioned memorandum dated 27.09.2004, your applicant states that your applicant denies and disputes the correctness of the statements and/or allegations and/or contentions as made therein the memorandum dated 27.09.2004, save and except what are matters of records of the case.
- 4.9 That your applicant once again repeats and reiterates that it is crystal clear from the records of the case that nature of works/functions/duties and level of responsibilities of DFOs (T) and AFOs(T) are same and equal.
- 4.10 That your applicant once again repeats and reiterates that it is crystal clear from the records of the case that respondents concerned received grievance representations from a large numbers of AFOs (T) in the said matter that nature of works/functions/duties and level of responsibilities of DFOs (T) and AFOs (T) are same and equal, but AFOs (T) are paid salary in the scale of pay Rs. 4000-100-6000 instead of Rs. 5500-175-9000 and AFOs (T) are promoted to the rank of DFO(T) instead of FO(T).
- 4.11 That your applicant further beg to say that in the similar facts and circumstances, the respondents Union of India considering the performance of similar nature of job, duties and responsibilities both by the incumbents holding the post of ATO

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i.e. Assistant Technical officer as well as by the Technical Officer in the respondents organization have extended same pay and scale of Rs. 8,000-275-13,5000/-; although the recruitment conditions/recruitment qualifications, Recruitment Rules and rank and status are different even then the Govt. of India, more particularly the respondents U.O.I have extended same pay scale only on consideration to the fact on both the cadres of Assistant Technical Officer and Technical Officer are discharging similar duties and responsibilities. On the mere perusal of the recruitment rules of the cadre of Technical officer and Assistant Technical Assistant Officer it would be evident from the Recruitment qualification and Recruitment Rules are different and both the cadres indicated above are govern by the separate recruitment rules, but the respondents department on consideration of the fact extended the same pay scale of Rs. 8,000-275-13,5000/- to the cadre of Assistant Technical Officer, which is allotted to the cadre of Technical Officer. The applicant's being similarly circumstanced entitled to similar benefit of pay scale of Rs. 5500-9000, which is allotted to the cadre of DFO in the light of the decision taken by the respondents for allotment of higher scale to the cadre of Assistant Technical Officer, therefore denial of the benefit of the pay scale as prayed by the applicants is highly arbitrary and the same is violative of Article 14 of the Constitution.

A copy of the notification dated 25.05.2001 is enclosed as Annexure-F.

- 4.12 That it is stated that the applicant being similarly circumstanced like those of Assistant Technical Officer and cannot be denied the benefit of higher pay scale of Rs. 5500-9000 which is allotted to the cadre of DFO following the recommendation of the 5th Central Pay Commission, therefore denial of the aforesaid pay scale to the applicant has led to hostile discrimination.

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4.13 That it is stated that incumbents holding the post of AFO having limited scope of promotional avenue i.e. only 30% post are being allotted for the purpose of promotion from the cadre of AFO (T) to the cadre of DFO (T), whereas, respondents Union of India on the other hand provided 80% post on promotion from ATO to Under Secretary and restricted the quota of promotion to the extent of 20% even from the higher cadre of Technical Officer in the matter of promotion to the cadre of Under Secretary. Therefore it appears that the further discrimination is made in the matter of promotional avenue stated by the respondents department for the cadre of AFO(T), which is restricted to only 30% of the vacancies occurring in a particular year in the cadre of AFO(T). Be it is sated that AFO(T) are discharging the similar duties and responsibilities of DFO (T). Therefore the present applicant is similarly circumstanced like that of ATO are also entitle to further promotion to the cadre of FO(T) and as such respondents are duty bound to enlarge the scope of promotion to the applicant for providing at least 80% post of FO(T) in favour of the incumbents holding the post of AFO(T), otherwise it will lead to further discrimination in the matter of promotion.

4.14 That your applicant begs to submit that while on the subject it needs to be stated that during their visit at MS, Agartala in the month of November/December-2003, in reply to the grievance of Shri Sanchayan Mukhopadhyay, AFO(T) in the above-mentioned matter, Shri P. V. Kumar – Additional Secretary(Tele) and Shri Mannan - Director (TM) also have admitted that the grievance of AFOs(T) is genuine and the posts of AFO(T) will be abolished and all AFOs(T) will be made DFOs(T).

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4.15 That this application is made bonafide and for the cause of justice.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

- 5.1 For that, the applicant joined in this Organisation as Assistant Field Officer in Tele-Communication Cadre (hereinafter 'AFO(T)') on 03.05.1993 and from the joining day on 03.05.1993, he has been carrying out the duties and responsibilities of Deputy Field Officer (Tele-Communication Cadre) (hereinafter 'DFO(T)').
- 5.2 For that, staffmember of the post of AFO(T) has been performing the duties of same and equal nature of works, as being performed by DFOs(T), from his joining day in this Organisation.
- 5.3 For that, staffmember of the post of AFO (T) has been carrying out equal responsibility, as being carried out by DFOs(T), from his joining day in this Organisation.
- 5.4 For that, superior Officers assess the quality and standard of performance of the staffmembers of the post of AFO (T) placing them in the same merit list of DFOs(T).
- 5.5 For that, superior Officers assign morning or afternoon or night-shift duties or general duties for the staffmembers of AFO (T) placing them in the same Duty Roster of DFOs (T).
- 5.6 For that, shift Duty Officers allot the same nature of works in the Daily Station Diary for both AFOs(T) and DFOs(T).
- 5.7 For that, from his joining date in this organisation, AFO(T) perform the duties

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within the same Roster of DFOs(T).

- 5.8 For that, from his joining date in this Organisation, AFO (T) starts performing the said duties in the practical work fields and receive salary in the scale of Pay Rs.4000-100-6000/-. Whereas from the joining date in this Organisation, the directly recruited DFOs(T) can not perform the said duties in the practical work fields but receive salary in the scale of pay Rs. 5500 - 175 - 9000/- from the joining date in this Organisation.
- 5.9 For that, the directly recruited DFOs(T) are placed under Training at the Training Centre for the period of Ten months, to be acquainted with the said duties. After completion of the said ten months training the DFOs(T) are posted to the practical work fields to perform the said duties and functions as are being performed by the AFOs(T).
- 5.10 For that, in this organisation the claim of ATOs - Gazetted Officers-, as mentioned hereinabove, has already been approved at par with TOs but the claim of AFOs(T) - Non-Gazetted Officers - ,as mentioned hereinabove, has not yet been approved at par with DFOs(T).
- 5.11 For that, vide the general circular being memorandum No. 7/1/2002-WR-Tele-3915 dated 18.04.2002 also, it is ex-facie clear that a large number of AFOs(T) posted at outstations and Hqrs., submitted their grievance applications to the respondents concerned in the matter of the grievance of the applicant, as cited above, as because of, from the joining day in service as AFO(T) in this organisation, they have been carrying out the duties and responsibilities of DFOs(T).
- 5.12 For that, the respondents concerned erred in law in not considering the factors

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even what are matters of records of the case and which substantiate that nature of works/functions/duties and level of responsibilities of DFOs(T) and AFOs(T) are same and equal.

5.13 For that, on the name of reply, the respondents concerned communicated the said impugned memorandum dated 27.09.2004 only but it cannot be said that they dispose of the matter of the said grievance application dated 27.07.2004 in accordance with law.

5.14 For that, the issuance of the impugned memorandum dated 27.09.2004 is erroneous, misconceived and clearly shows the non-judicious attitude of the respondents concerned towards its subordinates.

5.15 For that, the respondents concerned did not dispose of the said grievance application dated 27.07.2004 of the applicant in accordance with law and as such the respondents concerned did not heed to comply the direction of the order dated 08.06.2004 passed by the Hon'ble Tribunal, Kolkata Bench in the matter of AFO(T)/O.A. No. 418/2004.

5.16 For that, the respondents concerned did not consider the following records of the case, which substantiate that nature of works/ functions /duties and level of responsibilities of DFOs (T) and AFOs (T) are same and equal: -

(a) Copies of the Daily Station Diary wherein duties /works /responsibilities as performed by AFOs (T)/DFOs(T) are made entry for office-records .

(b) Copies of the DTRs which also evince that nature of works/ functions/duties and level of responsibilities of DFOs (T) and AFOs (T) are same and equal.

(c) Copies of the Duty Roster wherein Morning or Afternoon or Night or General-

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Shift duties as assigned for AFOs(T) /DFOs(T) are mentioned.

(d) Copies of the Monthly Merit list wherein records of Monthwise output of the

Duties/Responsibilities as done by AFOs(T) & DFOs(T) are mentioned.

(e) Copies of the latest Seniority List of AFOs(T) which indicates numbers of AFOs(T) working in this Organisation is about 250 .

(f) Copies of the latest Seniority List of DFOs(T) which indicates numbers of DFOs(T) working in this Organisation is about 800.

(g) Book of R&AW (Recruitment, Cadre and Service) Rules.

(h) Book of our Departmental standing Orders.

5.17 For that, the respondents concerned erred in law in not considering the basic principle of pay fixation that the pay is normally fixed at the minimum of the pay scale relevant to the post; however, for certain posts provisions exist for fixing the pay at a higher stage than the minimum depending upon the qualification and experience of the candidate.

5.18 For that, the respondents concerned erred in law by repeatedly denying the very object of the case that nature of works/functions/duties and level of responsibilities of DFOs(T) and AFOs(T) are same and equal.

5.19 For that, the respondents concerned erred in law in not considering the basic principle of ' Equal Pay For Equal Work' and the basic principle of pay fixation in the above-mentioned matter of AFOs(T), non-gazetted officers but which have been followed in the matter of ATOs, gazetted officer, as mentioned above, who are working in the same Tele-Communication Cadre of this same organisation.

5.20 For that, each and every Rule/principle in Government service should be

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followed and/or applied for each and every Government servant irrespective post of Gazetted or Non-Gazetted.

- 5.21 For that, on this or that pretext making of reply and issuance of the memorandum dated 27.09.2004 can not and could not justify the action of the statutory functionaries and/or authorities discharging quasi-judicial duties and functions.
- 5.22 For that, authorities concerned did not consider the entire aspect of the matter in its correct perspective while passing the said impugned memorandum dated 27.09.2004.
- 5.23 For that, no authority acting bonafide, on good faith and on consideration of the relevant facts to the exclusion of irrelevant ones, can or could do the said impugned memorandum and reject the representations, as in the instant case, save and except on consideration of some extraneous facts and factors.
- 5.24 For that, when statute requires something to be done in a certain manner the same has to be done in that manner alone and any other mode of performance and/ or deviation thereof is strictly forbidden by law.
- 5.25 For that, the acts and activities on the part of the statutory authorities are in gross violation of the principles of natural and procedural justices as also the principles enshrined under Articles 14, 23 and 300A of the Constitution of India.
- 5.26 For that, reason is a sine-qua-non for passing the quasi-judicial order which is very much absent in the instant case.
- 5.27 For that, considering the gravity and density of the matter this Hon'ble Tribunal should interfere into the matter and pass appropriate Order for the ends of Justice.

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5.28 For that applicants are similarly circumstanced like those incumbents holding the post of Assistant Technical Officer in the respondents department and as such entitle to similar benefit of higher pay scale of Rs. 5500-175-9000 instead of 4000-100-6000, which is allotted to incumbents holding the post of DFO (T) since the applicants working in the cadre of AFO (T) are discharging the similar nature of jobs, duties and responsibilities like those incumbents holding the post of DFO(T).

5.29 For that, Govt. of India cannot make such discrimination in the matter of policy decision among the similarly circumstanced employees working the same Department.

5.30 For that, when the promotional avenue have been enlarged to the extent of 80% for the incumbents holding the post of Assistant Technical Officer for their promotion to the cadre of Under secretary on the sole consideration that both the Assistant Technical Officer and Technical Officer are discharging similar duties and responsibilities as such applicant is also entitle to similar benefit of promotional avenue by enlarging the quota of promotion at least to the extent of 80% in the cadre of FO (T) as done by the respondent Department in the case of the Assistant Technical Officer.

6. DETAILS OF REMEDIES EXHAUSTED:

The applicant declares that he had availed of all the remedies available to him under the relevant service rules.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT:

The applicant further declares that he had previously filed an application, regarding the matter, in respect of which this application has been made but the

Kailash Chandra Swain

same was disposed of with the liberty to approach this Tribunal, in event of the applicant still aggrieved, with decision of the respondents.

8. RELIEF(S) SOUGHT FOR:

Under the facts and circumstances stated above, the applicants humbly prays that Your Lordships be pleased to admit this application, call for the records of the case and issue notice to the respondents to show cause as to why the relief(s) sought for in this application shall not be granted and on perusal of the records and after hearing the parties on the cause or causes that may be shown, be pleased to grant the following relief(s):

- 8.1 To direct the respondents to cancel, withdraw and/or rescind the aforesaid impugned memorandum dated 27.09.2004, being Annexure 'C' hereof.
- 8.2 To direct the respondents to pay your applicant the service benefits on a par with DFO(T) from the date on 03.05.1993 as on when the applicant joined in this organisation as AFO(T) [i.e. from the joining date on 03.05.1993 your applicant to be paid the salary in the scale of pay Rs. 5500-175-9000 instead of Rs. 4000 - 100 - 6000 and your applicant to be promoted to the rank of FO(T) instead of DFO(T) and as such all the service benefits including ACP to be paid to your applicant on at par with DFO(T).
- 8.3 To direct the respondents to produce entire records of the case including the records of the observations/ reports of the Tele-Communication Cadre Review Committee and the records of the following copies /office records from the date on 03.05.1993 as on when the applicant joined in this organisation as AFO(T), for adjudication of the points at issue:
 - 1) Copies of the Daily Station Diary wherein duties/works/ responsibilities as performed by AFOs(T)/DFOs (T) are made entry

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for office-records.

- 2) Copies of the DTRs which also evince that nature of works/ functions/duties and level of responsibilities of DFOs (T) and AFOs (T) are same and equal.
- 3) Copies of the Duty Roster wherein Morning or Afternoon or Night or General-Shift duties as assigned for AFOs(T)/DFOs(T) are mentioned.
- 4) Copies of the Monthly Merit list wherein records of Monthwise output of the Duties/ Responsibilities as done by AFOs(T) & DFOs(T) are mentioned.
- 5) Copies of the latest Seniority List of AFOs(T) which indicates numbers of AFOs(T) working in this Organisation is about 250.
- 6) Copies of the latest Seniority List of DFOs(T) which indicates numbers of DFOs(T) working in this Organisation is about 800 .
- 7) Book of R&AW (Recruitment, Cadre and Service) Rules AFO(T) .
- 8) Book of our Departmental Standing Orders.

8.4 That the Hon'ble Tribunal be pleased to declare that the applicant is entitle to the benefit of pay scale of Rs. 5500-175-9000 instead of 4000-100-6000 at par with DFO (T) and other similar service benefits at par DFO(T) from the date of initial appointment to the applicants, in the manner it is granted to the erstwhile ATO.

8.5 That the respondents be directed to enlarge the quota of promotion to the extent of 80% in the cadre of FO (T) to the cadre of AFO(T), in the light of the decision rendered by the Department in the cadre of ATO

8.6 Cost of the application.

8.7 And to pass such further or other Order or Orders and/or Direction or Directions as to this Hon'ble Tribunal may deem fit and proper.

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9. INTERIM ORDER, IF ANY, PRAYED FOR:

Pending final decision on the application, the applicant seeks issuance of the following Interim Orders:-

- (a) An injunction do issue restraining the respondents from giving any effect or further effect to the said impugned memorandum dated 27-09-2004.
- (b) An injunction do issue restraining the respondents from filling up the vacant posts of FO (T) on promotion from the staffmembers of DFO(T), who joined in this organisation directly as DFO(T), whose seniority date is on or after the date of seniority of your applicant on 04.02.1991.

10.

This application is filed through Advocates.

11. Particulars of the I.P.O.

- i) I. P. O. No. : 209 J 60888
- ii) Date of Issue : 18.05.05
- iii) Issued from : G.P.O, Gumsahib
- iv) Payable at : G.P.O, Gumsahib

12. List of enclosures.

As given in the index.

Kailash Chandra Swain

VERIFICATION

I, K. C. Swain, son of Shri Syama Sundar Swain, age 39 years, working as Assistant Field Officer (Telecommunication Cadre), presently in the office of Deputy Commissioner, Special Bureau, Gangtok, Sikkim, resident of Mahula Palli, P.O. Arakhapur via Ballipadar, Distt.- Ganjam, Orissa, Pin - 761117, do hereby verify that the contents of Paras 1 to 4, 6, 7, 10, 11 and 12 are true to my personal knowledge and Paras 5, 8 and 9 believed to be true on legal advice and I have not suppressed any material facts.

And I sign this verification on the 16th day of May 2005.

Kailash chandra swain

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

38
Annexure-A

No. O. A. 418/2004

Date of order : 8.6.2004

Present : Hon'ble Mr. Nityananda Prusty, Judicial Member
Hon'ble Mr. N.O. Dayal, Administrative Member

KAILASH CH. SWAIN

VS.

UNION OF INDIA & OTHERS

For the applicant : Mr. S.K. Dutta, counsel
For the respondents : Mr. B. Debnath, counsel

ORDER

Nityananda Prusty, J.M.

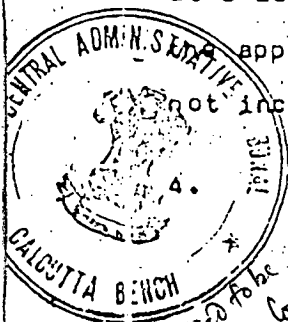
Heard Mr. S.K. Dutta, ld. counsel for the applicant and Mr. B. Debnath, ld. counsel for the respondents. Mr. Debnath files Memo of Appearance in the court today and prays time to file reply.

2. Mr. Dutta, ld. counsel for the applicant submits that the applicant wants to withdraw this O.A. with liberty to file a detail representation before the competent authority highlighting all his grievances, enclosing copy of different circulars/ orders/ decisions on which he relies upon in support of his contention and the respondents may be directed to consider and dispose of his representation within a stipulated period by passing a reasoned and speaking order in accordance with law.

3. Ld. counsel for the respondents, Mr. Debnath raises preliminary objection regarding maintainability of the O.A. at Calcutta Bench of the Tribunal. Since learned counsel for applicant is withdrawing the present application, we are not inclined to make any observation on the point of jurisdiction.

4. Considering the submissions made by the ld. counsel for

contdr...2



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True copy
for
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both sides, the O.A. is dismissed as 'withdrawn'. No order as to costs.

5. However, the applicant is at liberty to file a detail representation highlighting all his grievances before the respondent Nos.1 and 2 enclosing copies of relevant circulars/office orders/decisions on which the applicant relies upon in support of his claim, within a period of 6 weeks from today. In case such representation is filed, the respondent Nos.1 and 2 are directed to consider the said representation and dispose of the same by passing a reasoned and speaking order, within a period of 2 months from the date of receipt of such representation. It is made clear that we have not gone into nor observed anything on the merits of the case. After disposal of the representation, in case the applicant has any further grievance in the matter or if he is in any way aggrieved by the decision of the concerned authorities, he is at liberty to approach the appropriate forum for redressal of his grievances in accordance with law.

MEMBER (A)

s.m.

बसावत प्रति न्यायिक

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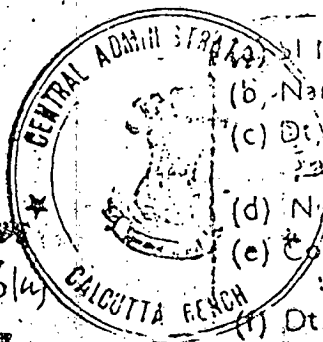
Governing Officer

केन्द्रीय प्रशासनिक अधिकारी

Central Administrative Tribunal

कोलकाता न्यायपीठ

Calcutta Bench



No of the "Appln"

(b) Name of the applicant

(c) Dt. of presentation or

application for copy

(d) No. of pages

(e) Copying fee charged/

urgent or ordinary

(f) Dt. of preparation of copy

(g) Dt. of delivery of the copy

to the applicant

MEMBER (B)

3568

Mo. S. K. Dutta, Adv.

18.6.04

02

11.6.04

Annexure-B

TO
THE DEPUTY COMMISSIONER
SPECIAL BUREAU
GOVERNMENT OF INDIA
GANGTOK, SIKKIM.

Sub: In the matter of AFO(Tele)/O.A.No. 418/2004.

Sir,

In compliance with the direction contained in the Order passed by the Hon'ble Tribunal, Kolkata Bench, I am enclosing herewith my grievance applications addressed to the Secretary and Joint Secretary (Pers) of our Department.

2. In respect of above, your necessary action is earnestly requested.

Thanking you,

Encl: As Above.

Date: 27.07.04

Place: SB, Gangtok.

Yours faithfully

K Swain
27/7/04

(K. C. SWAIN)

AFO(T)

ID No. 03552-E.

*Certified to be true copy
for
Admission*

To
The Secretary(R & AW)
Cabinet Secretariat
Government of India,
Room No.7, Bikaner House(Annexe),
Shanjan Road, New Delhi-110011.

Sub :- Prayer for a Natural Justice in the matter of
benefits in service (i.e. scale of pay/promotion/
ACP and others) for AFO(T) to be considered to be
equivalent to DFO(T) of our Organisation.

Sir,

I am enclosing herewith the xerox copy of the order
passed by the Hon'ble Central Administrative Tribunal,
Calcutta Bench on 08-06-2004 in the matter of AFO(T)/No.
C.A.418/2004.

2. My respectful submission hereunder is for favour of
a kind perusal and sympathetic consideration of Your Honour,
please :-

i) I was appointed as Assistant Field Officer in Tele-
communication cadre (hereinafter 'AFO(T)', in Rs. 1320-30-
1560-EB-40-2040(pre-revised scale of pay), vide office order
dated 05-04-1993 and was posted at special Bureau, Jammu,
Kashmir where I joined on 03-05-1993 in this organisation.

ii) I am presently working at Special Bureau, Gangtok,
Sikkim under the office of Commissioner, Special Bureau,
Kolkata.

iii) I shall complete twelve years of my service to this
organisation as AFO(T) on 02-05-2005 and as such A.C.P. for
this applicant will be effective from the next date of incre-
ment on 1st May, 2005.

iv) Since my joining day on 03-05-1993 in this organisation, I have been performing the duties of Deputy Field Officer of Tele communication Cadre (hereinafter 'DFO(T)).

v) In this Organisation both AFO(T) and DFO(T) have been performing the duties of same and equal nature of works.

vi) In this organisation both AFO(T) and DFO(T) have been carrying out the same nature of works and equal responsibility.

viii) Since both AFO(T) and DFO(T) perform same and equal nature of works, Superior Officers assess the quality and standard of performance of both AFO(T) and DFO(T) placing them in the same Merit List.

ix) ~~YEMR~~ AFO(T) and DFO(T) have been performing the duties within the same roster.

x) From the joining day in this organisation, AFO(T) starts performing the said duties in the practical work fields and receive salary in the scale of pay Rs. 4000-100-6000(i.e. Revised of pay as per CCS(Revised Pay) Rules, 1997).

xi) The directly recruited DFOS(T) are placed under Training at the Training centre for the period of Ten months, to be acquainted with the said duties.

xii) After completion of the said ten months training the DFOS(T) are posted to the practical work fields to perform the said duties and functions as are being performed by the AFOS(T).

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- Page - 3.

- xiii) From the joining day at service in this organisation directly recruited DFOs(T) can not perform the said duties in the practical work fields but receive salary in the scale of pay Rs. 5500-175-9000(i.e. Revised Scale of pay as per CCS(Revised pay) Rules, 1997) from the joining day in this organisation.
- xiv) In this organisation, AFO(T) is promoted to DFO(T) and DFO(T) promoted to FO(T).
- xv) Post of DFO(T) is a Group-B post and the post of AFO(T) is a Group-C post.
- xvi) While on the subject it needs to be illustrated here another similar case of "Equal pay for Equal work" that held with the Assistant Technical Officers(hereinafter ATO)who are working in this organisation in Telecommunication Cadre.
- xvii) Earlier, the scale of pay for ATO and Technical Officer(hereinafter TO) was not same.
- xviii) Earlier, ATO would be promoted to the post of TO and TO would be promoted to the post of Under Secretary.
- xix) In this organisation both ATO and TO carry out the same nature of works and equal responsibility.

xx) The benefits for ATOS (i.e. scale of pay/promotion/ACP and others), as claimed by the ATOS, have been approved at par with TOS.

xxi) Presently scale of pay for ATO and TO is same and both ATO and ~~TO~~ are promoted to the post of under Secretary.

xxii) On the Principle of 'Equal pay for Equal work' the claim of ATOS, Gazetted Officers, as mentioned hereinabove, has been approved at par with TOS but on the similar principle of 'Equal pay for Equal work', the claim of AFOS(T) Non-Gazetted Officers, as mentioned and hereinabove, has not been recommended and/or approved at par with DFOS(T).

xxiii) In compliance with the direction contained in the memorandum dated 19.09.2003 I submit my grievance application in the above matter through proper channel finally on 29.09.2003 .

xxiv) Through the memorandum dated 07.11.2003, it is intimated that the matter, regarding scale of pay for AFO(T) in Rs. 5500-175-9000 instead of Rs. 4000-100-6000 and AFO(T) to be promoted to the rank of FO(T) instead of DFO(T), has been examined under circular No.7/1/2002-WR-Iels-3915 dated 18.04.2003.

A copy of the memorandum dated 07.11.2003 is annexed hereto.

WS

xxv) In this context, I beg to state that there is no such type of order or memorandum being No. 7/1/2002-WR-Tele-3915 dated 18.04.2003, has ever been circulated in our department.

xxvi) Through the general circular being memorandum No.7/1/2002-WR-Tele-3915 dated 18-04-2002, it has been stated that a large number of representations, have been received from AFOS(T) posted at outstations and Hqrs, requesting for revision of pay scale on the lines of pay scale in MHA and other organisations like police Wireless.

xxvii) Through my above mentioned grievance application, I sought for revision of pay scale /promotion status and/or benefits on the line of 'Equal pay for Equal work'.

xxviii) Through my above-mentioned grievance application, I sought for revision of pay scale/promotion status and/or benefits on a par with DFOS(T) who are working in and/or within the same Tele communication Cadre of this same organisation.

xxix) Through my above-mentioned grievance application, I sought for revision of pay scale/promotion status and/or benefits, but never on the lines of other organisations.

3. In the premises, I, therefore, beseech upon Your Honour so that the facts and circumstances of this case may kindly be thoroughly examined whether the benefits in service (i.e. scale of pay/promotion/ACP and others) for AFOS(T) may be considered on a par with DFOS(T), since in this organisation Tele communication cadre, AFOS(T) have been performing the duties and functions as are being performed by DFOS(T).

4. Considering the gravity and density of the matter, Your Honour is, therefore, highly implored to interfere into the matter and pass appropriate order for the ends of justice.

5. Praying a kind heart and sympathetic consideration of Your Honour, please.

Enclo :- As above.

Dated : 27.7.04

Place : S.B, Gangtok.

Yours Faithfully,

K Swain
27/7/04
(K.C. SWAIN)
Assistant Field Officer (Tele)
Special Bureau, Gangtok.
I.D.No. 03552-E

NO. 477/2003-Agr/tele/-2895X
 Special Bureau
 Govt. of India
 Agartala.

Dtd. the 7/11/03.

Memorandum.

Refer to your representation dated 29/9/03 regarding scale of pay for AFO(T) in Rs. 5500-175-9000 instead of Rs. 4000-100-6000 and AFO(T) to be promoted to the rank of FO(T) instead of DFO(T).

The above mentioned re-representation has returned in original by SO(Pers.), SB, Kolkata memo no. 25/1/2003-cal-pers.-12717 dated 31/10/03 with the following remarks :-

Quote : The matter has been examined under circular no. 7/1/2002-WR-Tele-3915 dtd. 18/4/03 and the aforesaid representation have not been considered for forwarding the concerned addresses. Unquote: Therefore, the representations are returned herewith for returning the same to the concerned officials.

Amrased
 7/11/03
 Asstt. Commissioner-Tele

To

1. Shri K.c Swain, AFO(T)
 MS.SB.ACARTALA.

2. Shri Simul Datta, AFO(T)
 MS.SB.ACARTALA.

Certified to be true copy
Advocate

BY: EC 6883 / P.E.
DATE 4/15/04

Special Bureau, GTR. -34-
No. 3828
Date 14/8/04

Annexure-D

SECRET

No. 1/5/04/Pers.3- 12005
Government of India
Cabinet Secretariat
New Delhi, the

27 SEP 2004

MEMORANDUM

Subject : Representation of Shri K.C. Swain, AFO(T) regarding upgradation of pay scale of AFO(T) at par with DFO(T).

Please refer to your representation dated 27.7.04 forwarded by Commissioner, SB, Kolkata vide memo No. 65/2/2004-Kol(Pers) dated 11.8.04 addressed to the Secretary in pursuance of Hon'ble CAT, Kolkata Bench order dated 8.6.04 in OA No. 418/2004 on the above subject.

2. The points raised in your representation have been considered/examined comprehensively. Point-wise reply to your representation is as under :-

Para 2 (i), (ii) & (iii)

Being factual in nature, these paras require no comments.

Para 2 (iv), (v), (vi), (viii) & (ix)

3. Your contention that AFOs(T) are performing the duties of DFOs(T) and both AFOs(T) and DFOs(T) are performing the same type of work is not factually correct. The duties of AFOs(T) and DFOs(T) are different and not comparable. As per R&AW (RC&S) Rules, 1975, both these posts belong to Telecommunication Cadre. The post of AFO(T) is a feeder grade post of DFO(T). The minimum educational qualifications prescribed for direct recruitment to the post of DFO(T) are higher than that of AFO(T). The minimum educational qualifications required for direct recruitment to the post of DFO(T) is "Degree in Science of recognised University with Physics and Mathematics or Diploma (Three years duration) in Telecommunication/Radio Engineering/Electronics/Electronics and Communications/Electronics and Telecommunication or Bachelor in Computer Applications or equivalent Diploma of a recognised Institution or Certificate of proficiency Class - II examination which is conducted by the Ministry". Whereas the educational qualifications for direct recruitment to the post of AFO(T) used to be "Matriculation or equivalent with Diploma in Radio Servicing or Radio Engineering or Combustion or Radio operation from a recognised Technical Institute, the course covering a minimum period of 12 months". DFOs(T) are generally entrusted with higher level of responsibilities in comparison to AFOs(T). The nature of duties/functions of DFOs(T) are quite distinct and cannot be equated with lower feeder grade post of AFOs(T). 65% posts of DFOs(T) are filled by direct recruitment on the basis of All India Open Competitive Examination and on their appointment they undergo specialised training viz. Senior Basic Communication Course for 10 months. Thereafter, they are put on practical on-job training in various Units. No such specialised training is required for AFOs(T) as they are deployed mainly on routine trade jobs. It would thus be totally incorrect to say that AFOs(T) and DFOs(T) are performing the same duties without any distinction. The directly recruited DFOs(T) are more qualified and attend to the duties of maintenance of various sophisticated machines of Telecommunication Wing and are also involved in procurement, operation &

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for
Advocate

maintenance of Electronics & Telecommunication equipment. Their duties cannot be compared with the routine nature of trade related jobs being handled by the AFOs(T) which is the lowest grade in the cadre.

4. It is further pointed out that the scales of pay prescribed for various categories of posts in our Organisation are based on the recommendations made by respective Central Pay Commissions. The pay scales prescribed for the posts of AFOs(T) and DFOs(T) by the Government based on the recommendations of Pay Commissions from time to time are given below :-

	<u>AFO (T)</u>		<u>DFO(T)</u>	
	<u>Pre-revised</u>	<u>Revised</u>	<u>Pre-revised</u>	<u>Revised</u>
III Central Pay Commission w.e.f. 1.1.73.	Rs.150-216/-	Rs.330-480/-	Rs.210-320/-	Rs.425-600/-
IV Central Pay Commission w.e.f. 1.1.86.	Rs. 330-480/-	Rs.1320-2040/-	Rs.425-600/-	Rs.1640-2900/-
V Central Pay Commission w.e.f. 1.1.96	Rs.1320-2040/-	Rs.4000-6000/-	Rs.1640-2900/-	Rs.5500-9000/-

5. Your contention that both AFOs(T) and DFOs(T) are performing the duties within the same roster and superior officers assess the quality and standard of performance of both AFOs(T) and DFOs(T) placing them in the same merit list is also not correct. The work and conduct of every official is assessed on individual basis and the same is suitably reflected in the individual's ACRs accordingly. This does not have any bearing on the prescription of pay scales.

Para 2 (x) - Being factual in nature, require no comments.

Para 2 (xi), (xii) & (xiii)

6. Your perception that DFOs(T) on their joining are imparted training to acquaint them with the work and duties as are being performed by the AFOs(T) is absolutely wrong. Equally wrong is your perception that such directly recruited DFOs(T) cannot perform the duties being performed by AFOs(T) in the practical work fields though they are getting higher pay scale of Rs. 5500-9000/- (revised). As already mentioned above, the minimum educational qualifications prescribed for direct recruitment to the post of DFOs(T) is much higher than the educational qualifications prescribed for direct recruitment to the post of AFOs(T). The levels of responsibility and duties of these two posts are not comparable. Hence, no comparison can be drawn between AFOs(T) & DFOs(T).

Para 2 (xiv & xv) - Being factual in nature, these paras require no comment.

Para 2 (xvi to xxii)

7. No comparison can be drawn with the supervisory posts of ATO/TO with the posts of AFO(T)/DFO(T). The pre-revised scale of ATO was Rs. 2000-3500/- whereas the feeder grade post of FO(T) was Rs. 2000-3200/-. The scale of pay for both these grades was almost identical with the same rate of increment. The same scale of pay was prescribed for equivalent posts in other cadres viz. FO/SFO in Junior Executive Cadre, Cipher Cadre, Cryptographic Cadre, Cartographic, CRF, RA/ARO in Economic Research Cadre and Technical Research Cadre, AFLE/DFLE in Language Cadre. The Vth Central Pay Commission prescribed the revised scale of pay for all these grades viz. SFO/ATO/ARO/AFLE as Rs. 8000-13500/- with effect from 1.1.96 bringing these posts at par with the post of TO/RO/DFLE. Earlier to Vth Pay Commission, ATO/ARO/AFLE were promoted to the post of US after rendering 8 years regular service in the grade against specific quota prescribed in the recruitment rules. Now w.e.f. 1.1.96, the ATO/ARO/AFLE are promoted to the rank of US after completion of 5 years of eligibility service against the said quota prescribed in the rules. In Telecommunication Cadre, 80% posts of US are earmarked for promotion from the grade of ATO and 20% post of US from the grade of TO. TOs are appointed directly on the basis of Competitive Examination and no ATOs were promoted to the grade of TO even prior of Vth Central Pay Commission. However, prior to 1986 50% posts of TO were filled by promotion from ATO, 20% by direct recruitment and 30% by deputation/re-employment. On the basis of comprehensive Cadre Review and Government orders issued thereon, effective from 10.5.86, 15 posts of TOs were abolished and all remaining posts of TOs were ordered to be filled by direct recruitment only. Thereafter, ATOs/TOs with 8 years and 5 years service respectively became eligible for promotion to the post of US(Tele) and necessary amendments were made in the recruitment rules accordingly. Subsequently the mode of filling up the posts of US from two feeder grade posts of ATO/TO, the prescribed quota were changed as 80% from ATOs and 20% from TOs keeping in view the total number of sanctioned posts in these two feeder grade posts. The situation in the grade of AFO(T) is quite different. AFOs(T) are appointed in the scale of pay of Rs. 4000-6000/- having the requisite lower educational qualification of Matriculation with Diploma in Radio Servicing etc. as prescribed in the recruitment rules. Whereas DFOs(T) are appointed with the requisite educational qualifications of Degree in Science with Physics and Mathematics etc. as prescribed in the recruitment rules. As per provision of R/Rules, 30% posts of DFOs(T) are filled by promotion from the feeder grade of AFOs(T) and 65% by direct recruitment and 5% by deputation/re-employment. The post of AFO(T) cannot be made equivalent to the post of DFO(T) as the qualifications, experience and level of responsibilities and duties of these two posts are distinct and not comparable.


Para - 2 (xxiii to xxix)

8. So far as your representation dated 29.9.2003 is concerned, it is to inform the said representation was not forwarded to the Hqrs. as points raised therein had already been examined by us earlier on receipt of various representations and it was not found feasible to accede to their request for upgradation of the post of AFO(T) to the grade of DFO(T). As already mentioned above, the Central Pay Commission constituted by the Government from time to time is the specialised body to examine the pay structure of the posts in any Cadre of the departments of Government of India. In this connection, it is further pointed out that the pre-revised scale of AFO(T) was Rs. 1320-30-1560-EB-40-2040/- and the normal revised replacement scale as recommended by Vth Central Pay Commission and as approved by the Government is Rs. 4000-100-6000/- which has correctly been prescribed. The same scale of pay has been prescribed for equivalent posts in other

cadres also. In other sister Organisations viz. IB and ARC also, the scale of pay of posts of JIO - I equivalent to AFO is Rs. 4000-6000/- only. There is no parity between AFO(T) and DFO(T) as their levels of responsibilities and duties are quite distinct and not comparable.

9. The points raised by you have been clearly explained above. In view of facts stated above, your request for grant of pay scale as applicable to the posts of DFO(T) cannot be accepted.

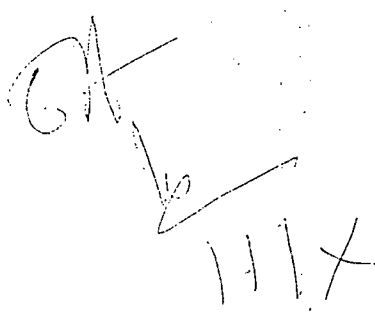
10. This issues with the approval of competent authority.


(P.K. MATHUR)
DIRECTOR(PERS)

Shri K.C. Swain, AFO(T)
Through Commr. SB, Kolkata. - Through DC, SB, Gangtok.

Copy to : (1) DC, SB, Gangtok
(2) US(Pers.V)
(3) Director (Tele)


DIRECTOR(PERS)



Annexure-DE

To
The Secretary(R &AW)
Cabinet Secretariat
Government of India
Room No.7, Bikaner House(Annexe)
Shahjahan Road, New Delhi-110011.

Representation

(THROUGH PROPER CHANNEL)

Ref : Memorandum dated 27.09.2004.

Sub : In the matter of benefits in service (i.e. Scale of Pay/Promotion /ACP and others) to be extended to AFO(T) on a par with DFO(T) from the joining day in service.

Sir,

I am extremely shocked and surprised on receipt of the memorandum under-reference wherein my representation dated 27.07.2004 has been rejected flatly denying the fact that nature of works/functions/duties and level of responsibilities of DFOs(T) and AFOs(T) are same and equal.

2. The followings copies/records substantiate the fact that nature of works /functions /duties and level of responsibilities of DFOs(T) and AFOs(T) are same/equal :-

- a) Copies of the Daily Station Diary wherein duties /works /responsibilities as performed by AFOs(T)/DFOs(T) are made entry for office-records .
- b) Copies of the DTRs which also evince that nature of works/functions/ duties and level of responsibilities of DFOs(T) and AFOs(T) are same and equal.
- c) Copies of the Duty Roster wherein Morning or Afternoon or Night or General-Shift duties as assigned for AFOs(T) /DFOs(T) are mentioned.
- d) Copies of the Monthly Merit list wherein records of Monthwise output of the Duties /Responsibilities as done by AFOs(T) & DFOs(T) are mentioned.
- e) Copies of the latest Seniority List of AFOs(T) which indicates numbers of AFOs(T) working in this Organisation is about 250 .
- f) Copies of the latest Seniority List of DFOs(T) which indicates numbers of DFOs(T) working in this Organisation is about 800 .
- g) Book of R&AW (Recruitment, Cadre and Service) Rules
- h) Book of our Departmental standing Orders.

3. I , therefore, beseech upon Your Honour that I may kindly be supplied the above-mentioned copies (as mentioned in Para 2. of this representation) which are required to approach the appropriate forum for redressal of my grievance (in the above-mentioned matter) in accordance with Law, as direction given in the Order dated 08.06.2004 passed by the Hon'ble Tribunal , Kolkata in the matter of O.A. of No.418/2004.

Date : 28/2/05
Place : SB, Gangtok.

Yours faithfully
K. C. Swain 28/2/05
(K. C. SWAIN)
AFO(T)/ID NO.03552-E.

Certificate to be furnished for Adm. AFOs

Annexure-E F

-104-

**CADRE STRENGTH OF THE TELECOMMUNICATION CADRE
OF THE RESEARCH AND ANALYSIS WING AS AMENDED VIDE
NOTIFICATION DATED 25.5.2001**

ANNEXURE-F

S.NO.	Designation	Scale of Pay	Permanent	Temporary	Total	Remarks
1	Joint Secretary (Telecommunication)	Rs. 18400-500-22400	-	1	1	
2	Director (Telecommunication)	Rs. 16400-450-20000	1	4	5	
3	Deputy Secretary (Telecommunication)	Rs. 12000-375-16500	5	3	8	
4	Under Secretary (Telecommunication)	Rs. 10000-325-15200	16	14	30	
5	Technical officer (Telecommunication)	Rs. 8000-275-13500	21	-	21	
6	Asstt. Technical officer (Telecommunication)	Rs. 8000-275-13500	75	36	111	
7	Field officer (Telecommunication)	Rs. 6500-200-10500	267	54	321	
8	Dy. Field officer (Telecommunication)	Rs. 5500-175-9000	769	7	776	
9	Asstt. Field officer (Telecommunication)	Rs. 4000-100-6000	306	3	309	

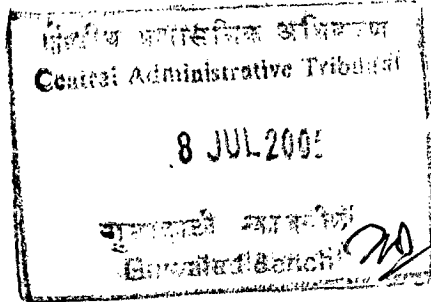
Note: Annexure 'D' above as amended vide Cabinet Sectt. Notification No. A-12018/42/87-DOI dt. 27.3.89 (F.No. 1/5/87-Pers.5).

(2) Sanctioned strength of posts of Director (Tele), Field Officer (Tele), Deputy Field Officer (Tele) and Assistant Field Officer (Tele) as amended vide Cab. Sectt. Corrigendum No. A-12018/42/87-DOI dt. 2.5.90 (F.No. 1/5/89-Pers.5).

(3) Deputy Secretary (Tele) as inserted vide Cab Sectt. Notification No. A-12018/42/89-DOI dt. 21.5.90 (F.No. 1/5/89-Pers.5).

(4) Annexure 'D' above as amended vide No. A-12018/17/99-DOI dt. 25.5.2001 (F.No. 1/5/2000-Pers.3)

Certified to be true copy



Filed by
The Respondents
Through
Leela Das
Addl. Secy
2/7/05

Alum
DEPUTY COMMISSIONER
SPECIAL BUREAU
GOVERNMENT OF INDIA
GUWAHATI

1
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

OA NO. 109/2005

SHRI K. C. SWAIN

.....APPLICANT

-VERSUS-

UNION OF INDIA & ORS

.....RESPONDENTS

IN THE MATTER OF

Show cause reply submitted by the
respondents against the OA filed by the
applicant

- 1) That the respondents have received copy of the OA filed by the applicant along with the order dated 25.5.2005 passed by the Hon'ble Tribunal issuing notice to the respondents to show cause as to why the OA shall not be admitted passed. The respondents have gone through the OA and have understood the contentions made thereof. Save and except the statements, which are admitted herein below, rests may be treated as total denial. The statements, which are not borne on records, are also denied and the applicant is put to the strictest proof thereof.
- 2) That the respondents beg to state that the OA has been made in support of reliefs sought by the applicant by way of grant of pay scale of Rs, 5500-175-9000/- of the post of DFO (T) to AFOs (T) in the pay scale of Rs. 4000-100-6000/- on the ground that duties performed by officials in both the grades are the same and equal. The applicant has also made submission for direction of the Hon'ble Tribunal for production of copies of following documents/office records to substantiate their contentions:-
 - a) Daily Station Dairy
 - b) DTRs
 - c) Duty Roster

- d) Monthly Merit List
- e) Seniority List of AFOs(T)
- f) Seniority List of DFOs(T)
- g) Book of R&AW (Recruitment, Cadre and Service) Rules
- h) Book of Departmental Standing Orders

3) That in reply to representation made by the applicant for up gradation of pay scale of grade of AFO (T) at par with DFO (T), detailed speaking and reasoned point-wise reply on points raised by the applicant in his ^{re}presentation was given vide Memoranda dated 27th September, 2004 ~~27th September, 2004~~ (Annexure-D to the OA). The applicant has not made any substantial new point in his OA. The contentions made by the applicant in the OA and comments of the respondents thereon are briefly as under:-

- a) That detailed Speaking and reasoned ~~reply~~ reply to representation submitted by the applicant in compliance with Hon'ble Central Administrative Tribunal, Kolkata Bench's order dated 8.6.2004, was given to him vide the Memoranda dated 27.9.2004. All the contentions made by the applicant for up gradation of pay scale of AFO (T) from Rs.4000-100-6000/- to Rs.5500-175-9000/- of the post of DFO (T) was convincingly rebutted. The applicant has not made any substantial new point in his OA.
- b) That it is denied the duties of AFOs (T) and DFOs (T) are of same nature and equal responsibilities. The qualifications and level of responsibilities of these two posts are distinct and are not comparable at all. Whereas the minimum qualification for direct recruitment to the post of DFO (T) is at the level of Graduation in Science or equivalent, the minimum qualification prescribed for the post of AFO (T) is Matriculation or equivalent with Diploma in Radio servicing or Radio Engineering, etc.
- c) That it is denied that superior officers assess the performance of both AFOs(T) and DFOs (T) by placing them in same merit list. The performance of officials is assessed on individual basis and reflected in the ACR s of individual concerned. The performance of the officials in the different ranks is not assessed on class basis.
- d) That it is denied that DFOs (T) on joining are imparted training to acquaint themselves with the work and duties as are being performed by AFOs (T). In fact,

the minimum qualifications prescribed for direct recruitment to the post of DFO (T) is much higher than that of educational qualifications prescribed for direct recruitment to the post of AFOs (T). Newly recruited DFOs (T) are imparted technical training to train them for the duties of the post held by them. AFOs (T) are also imparted technical training during their service to equip them with the functions of the post held by them.

e) That no comparison can be drawn between the duties of supervisory gazetted posts of ATO (Tele)/TO (Tele) with that of AFO (T)/ DFO (T). While the posts of AFO (T) and DFO (T) are Group 'B'/'C' non-gazetted posts, the post of TO (Tele) is a Group-'A' gazetted post, filled exclusively by direct recruitment from candidates possessing Degree in Engineering of Technology from recognized University in the subjects as specified in the recruitment rules. Prior to recommendation of the Vth Central Pay Commission implemented w.e.f. 1.1.1996, the pre-revised pay scale of ATO(Tele) was Rs.2000-60-2300-75-3200-100-3500/- as against pay scale of Rs.2000-60-2300-75-3200/- for the feeder grade of FO(T). Since the pay scales of both the posts were almost identical with same rate of increment, pay scale of post ATO(Tele) and that of equivalent posts in the other Cadres, were upgraded by Vth Central Pay Commission to Rs. 8000-275-13500/- at par with that of post of TO(Tele) and equivalent posts in other Cadres. It is not out of place to mention that the Pay Commission does grant and revision of pay scales after exhaustive analysis of various factors including nature of functions of the posts, responsibilities and qualifications.

f) That the Vth Central Pay Commission recommended higher pay scale of Rs. 8000-13500/- to ATOs(Tele) only and no recommendation for up gradation of pay scale of AFO(T) to that of Rs. 5500-9000/- to bring them at par with DFO(T), was made by the Commission.

g) That since the qualifications and responsibilities of the non-gazetted posts of AFO(T)/DFO(T) and that of supervisory gazetted post of ATO(Tele) are distinct, there cannot be a question of comparison of promotional avenues between the two categories of posts. The 80% and 20% quotas prescribed for promotion of ATOs (Tele) and TOs (Tele) respectively to the grade of US(Tele) is largely based on respective sanctioned strength in these two grades. The sanctioned strength of ATOs (Tele) and TO (Tele) at present is 123 and 21 respectively. The applicant's plea for promotion of AFOs (T) direct to the grade of FO(T) and reserving 80% of posts in the grade of FO(T) for them by drawing comparison

with reservation of 80% posts in the grade of US(Tele) for ATOs (Tele) is misleading. Acceptance of this statement would imply reserving only 20% of posts in the rank of FO (T) for DFOs (T). The strength in the grade of FO (T) being 428, this would amount to reserving 342 posts of FO (T) for only 199 sanctioned posts of AFOs (T). On the other hand, DFOs (T) with sanctioned strength of 736 will be left with only 86 posts of FO (T) for their promotion. Irrationality of contention made by the applicant is apparent from this. Besides, ^{different levels of educational qualification are prescribed for direct} recruitment to the posts of AFO (T) and DFO (T) and nature of their duties and responsibilities are distinct and not comparable as explained above, the grade of AFO (T) cannot be feeder grade for promotion to the grade of FO(T). The grade of DFO (T) can only be the feeder grade for promotion to the grade of FO (T).

h) That regarding applicant's plea for production of documents mentioned in Para 1 above, it is stated that theses documents are not at all relevant to contentions made by the applicant in the OA, that nature of duties and level of responsibilities of DFOs (T) and AFOs (T) are same and equal. The documents mentioned Para 1(g) ^{and 1(h) viz. Book of R & AW (Recruitment, Cadre and Service)} Rules and Book of Departmental standing orders are not at all relevant to the case. While R&AW (Recruitment, Cadre and Service) Rules contains provisions of recruitment rules for filling posts in various Cadres in this Organization, the Department Standing Orders mentioned in Para 1(h) above, is only a compilation of various internal departmental instructions issued from time to time. This contains nothing as far as nature of duties and level of responsibilities of DFOs (T) and AFOs (T) is concerned. Seniority list of AFOs (T) and DFOs (T) only include the names of incumbents in these grades and have no relevance to nature of duties and responsibilities of the incumbents of posts in these grades. The other documents mentioned in Para 1(a) to 1 (d) also relate to operational and technical functioning of the units where AFOs (T), DFOs (T) and other personnel of the Telecommunication Cadre are deployed. These records are of classified nature, will be produced for perusal of Hon'ble Tribunal, if so desired.

Copies of the Recruitment Rules and the report of Vth Central Pay Commission are annexed herewith and marked as Annexuer-R1 & R2 respectively.

4) That the respondents pray that the OA filed by the applicant has no merit and deserved to be dismissed with costs by the Hon'ble Tribunal

- 5 -

(44) 58

AFFIDAVIT

I, Shri ARVIND KUMAR aged about 39 years at present working as Dy. Commissioner SEx, at Guwahati, who is on behalf on Respondent No. (3) taking steps in the matter and hence competent to sign this affidavit do hereby solemnly affirm and state that the statement in paragraphs 1 to 3 are matter of records, are true to my information derived there from and the paragraph 4 ~~is~~ ^{are} my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact.

And I sign this affidavit on this 6th day of July, 2005 at Guwahati

Identified by me

Usha Das
advocate

Arvind Kumar
DEPONENT (Arvind Kumar)

Solemnly affirm and state by the deponent, who is identified by Miss Usha Das, Advocate, on this 6th day of July, 2005 at Guwahati

**DEPUTY COMMISSIONER
SPECIAL BUREAU
GOVERNMENT OF INDIA
GUWAHATI**

Annexure - 1

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SCHEDULE V
(See rule 44)

**METHOD OF RECRUITMENT TO THE POSTS IN TELECOMMUNICATION CADRE
OF THE RESEARCH AND ANALYSIS WING**

S.No	Grade	Designation	Method of filling the posts	Qualification for direct recruitment:			Qualifications and basis of promotion for direct entrants		
				**Age limit	Minimum Educational Qualifications	Minimum experience	Grade from which promotion is to be made	Minimum length of service in the Grade as shown in Col.No.8	Basis of promotion
1	2	3	4	5	6	7	8	9	10
1.	1	Joint Secretary (Telecommunication) (I post) - General Central Service Group-"A" Gazetted Rs. 18400-5000-23400.	<p>By promotion, direct recruitment, deputation or re-employment of retired Government servants.</p> <p><u>Deputation or Re-employment:</u></p> <p>i) Person holding analogous posts on regular basis in Central Government Civilian Organisation or officers in the grade of Rs.16400-23400 who have rendered not less than two years regular service and possess the minimum educational qualifications and experience prescribed for direct recruitment.</p> <p>(ii) The armed forces personnel due to retire or who are to be transferred to reserve within a period of one year and having the requisite experience and qualification prescribed for direct recruitment shall also be considered. Such persons would be given deputation terms upto the date on which they are due for release from the armed forces, thereafter they may be continued on re-employment.</p> <p>Note: (i) The period of deputation including the period of deputation in another ex-cadre post held immediately</p>	55 (*) years	Master's Degree in Science in the appropriate subject or Degree in the appropriate Engineering or Technical subjects	17 years technical or research experience pertaining to telecommunication, operations, administration and/or intelligence	Grade II Director (Telecommunication)	2 years regular service	Selection by merit

			preceding this appointment in the same or some other organisations/department of the Central Government shall not ordinarily exceed five years. The maximum age limit for appointment on deputation shall be not exceeding 56 years as on the last date of receipt of the applications.						
2.	II	Director (Telecommunication) (5 posts General Central Service Group "A" Gazetted Ps. 164(X)-15/-2000).	By promotion, direct recruitment, deputation or re-employment of retired Government servants. <u>Deputation or Re-employment</u> i) Persons holding analogous posts on regular basis in Central Government Civilian Organisation or officers in the grade of Ps. 12000-16500 who have rendered not less than seven years regular service and possess the minimum educational qualifications and experience prescribed for direct recruitment. (ii) The armed forces personnel due to retire or who are to be transferred to reserve within a period of one year and having the requisite experience and qualification prescribed for direct recruitment shall also be considered. Such persons would be given deputation terms upto the date on which they are due for release from the armed forces, thereafter they may be continued on re-employment. Note : (i) The period of deputation including the period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other organisation/department of the Central Government shall not	51(*) years	Master's Degree in Science in the appropriate subject or Degree in the appropriate Engineering or Technical subjects	10 years technical or research experience pertaining to telecommunication, operation, administration and/or intelligence.	Grade III Deputy Secretary (Telecommunication)	7 years regular service in the post of DS (Tele) falling which 12 years combined service as US (Tele) and DS(Tele) of which at least 2 years shall be in the Grade of DS(Tele). "Note : The eligibility service for promotion to the post of Director shall continue to be five years regular service in the post of DS, falling which 10 years combined regular service as US and DS, of which at least 2 years shall be in the post of DS, for officers holding the post of DS on regular basis on the date of notification (24.4.2001) of the	Selection by merit

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			ordinarily exceed five years. The maximum age limit for appointment on deputation shall be not exceeding 56 years as on the last date of receipt of the applications.					R&AW (RC&S) Amendment Rules 2001".	
3.	III	Deputy Secretary (Telecommunication) (3 posts General Central Service Group "A" Gazetted Rs. 13000-375-16500.	By promotion, failing which by deputation, absorption or re-employment <u>Deputation or Re-employment:</u> (i) Persons holding analogous posts on regular basis in Central Government Civilian Organisation or officers in the grade of Rs. 10000-15200 who have rendered not less than five years regular service and possess the minimum educational qualifications and experience prescribed for direct recruitment. TO (Tele- (ii) The armed forces personnel due to retire or who are to be transferred to reserve within a period of one year and having the requisite experience and qualification prescribed for direct recruitment shall also be considered. Such persons would be given deputation terms upto the date on which they are due for release from the armed forces, thereafter they may be continued on re-employment. Note: (i) The period of deputation including the period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other organisations department of the Central Government shall not ordinarily exceed five years. (ii) The maximum age limit for appointment on deputation shall be not exceeding 56 years as on the last date of	Not applicable	Not applicable	Not applicable	Grade IV/ Under Secretary (Telecommunication)	5 years	Selection by merit

			receipt of the applications.						
4.	IV	Under Secretary (Telecommunication) (30 posts General Central Service Group-"A" Gazetted Rs. 10000-325-15200.	(i) 20% by promotion of Technical Officers; and (ii) 80% by promotion of Assistant Technical Officers	Not applicable	Not applicable	Not Applicable	i) Grade V: Technical Officers (Telecommunication)	(i) 5 years	i) Selection-cum-seniority
							ii) Grade VI Assistant Technical Officer (Telecommunication)	(ii) 5 years	ii) Selection-cum-seniority
5.	V	Technical Officer (Telecommunication) (21 posts General Central Service Group-"A" Gazetted Rs. 8010-275-12500.	100% by direct recruitment	32(*) years	Degree in Engineering or Technology from a recognized university in Telecommunications or Electronics or Computer or equivalent or passed Graduate Membership Examination of the Institute of Electronics and Telecommunications Engineers (India) or Associate Membership Examination of Institute of Electronics and Telecommunications Engineers or MSc (Physics) with Wireless communications or Electronics or	Not Applicable	Not Applicable	Not Applicable	Not Applicable

					Radio Physics or Engineering as a special subjects.				
6.	VII	Assistant Technical Officer (Telecommunication) (111 posts General Central Service Group "A" Gazetted Rs. 8000-275-13500.	100% by promotion	Not Applicable	Not Applicable	Not Applicable	Grade VII Field Officer (Telecommunication)	5 years	Selection by merit.
	VII	Field Officer (Telecommunication) (321 posts General Central Service Group "B" Non-Gazetted Rs. 6500-290-10500.	9% by promotion and 10% by Limited Departmental Competitive Examination of Officer of Grade VIII/Deputy Field Officer (Telecommunication) with three years service	Not Applicable	Not Applicable	Not Applicable	Grade VIII Deputy Field Officer (Telecommunication)	5 years	Selection cum-seniority
5.	VIII	Deputy Field Officer (Telecommunication) (776 posts General Central Service Group "B" Non-Gazetted Rs. 5500-175-9000.	i: 45% by direct recruitment; ii: 50% by promotion of direct entrants, and iii: 5% by deputation-re-employment: <u>Deputation or Re-employment:</u> (Persons holding analogous posts on regular basis in Central Government Civilian Organisations or officers in the grade of Rs. 4000-6000 who have rendered not less than ten years regular service and possess the minimum educational qualifications and experience	20 to 35 years	Degree in Science of recognized university with Physics and Mathematics or Diploma (3 years duration) in Telecommunication Radio Engineering-Electronics/ Electronics and Communication/	Not applicable.	Grade-IX Assistant Field Officer (Telecommunication).	Ten years. Note:- In case of officers holding the post of Assistant Field Officer (Telecommunication) on regular basis on the date of commencement of R&AW (RC&S) Rules 2001 i.e. the	Selection cum-seniority.

		<p>prescribed for direct recruitment</p> <p>(ii) The armed forces personnel due to retire or who are to be transferred to reserve within a period of one year and having the requisite experience and qualification prescribed for direct recruitment shall also be considered. Such persons would be given deputation terms upto the date on which they are due for release from the armed forces, thereafter they may be continued on re-employment.</p> <p>Note : (i) The period of deputation including the period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other organisations department of the Central Government shall not ordinarily exceed five years.</p> <p>The maximum age limit for appointment on deputation shall be not exceeding 56 years as on the last date of receipt of the applications.</p>		<p>Electronics and Telecommunication or Bachelor in Computer Science/ Computer Applications or equivalent Diploma of a recognized institutions or Certificate or proficiency Class-II examination which is conducted by the Ministry.</p>			<p>date of issue of notification (25.5.2001), the eligibility service for promotion to post in Grade-VIII Dy. Field Officer (Telecommunication) shall be 5 years regular service in the feeder grade.</p>	
IX.	<p>Assistant Field Officer (Telecommunication) (309 posts General Central Service Group "C" Non-Gazetted Rs. 4000-100-6000.</p>	<p>50% by Direct recruitment and 50% by deputation or re-employment failing application of 50% from either mode of recruitment, the other mode can be utilized to make up the shortfall.</p> <p><u>Deputation or Re-employment</u></p> <p>i) Persons holding analogous posts on regular basis in Central Government Civilian Organisation and possess the minimum educational qualifications and experience prescribed for direct recruitment</p> <p>(ii) The armed forces personnel due to</p>	20-25 years	<p>Matriculation or equivalent with Diploma in Radio Servicing or Radio Engineering or combustion or Radio Operation from a recognized Technical Institute, the course covering a minimum period of 12 months</p>	Not Applicable	Not Applicable	Not Applicable	Not Applicable

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Foot note : The Principal rules were notified vide notification No. 24/5/74-SC dated 21.10.1975 and subsequently amended vide Notification Nos. as mentioned below:-

1. Schedule V above as amended vide Cab. Sectn. Notification No.A-12018/42/87-DOI dt. 27.3.89 w.e.f. 10.5.86 (F.No.1/5/87-Pers.5).
 2. Entries under Column 4 of S.No.4 relating to Under Secretary (Telecommunication), Col. 5,6,7 of Sl.No. 5 relating to Technical Officer (Telecommunication), Col. 4,6 of Sl.No.8 relating to Deputy Field Officer (Telecommunication) as amended vide Cab. Sectn. Notification No.A-12018/46/89-DOI dt. 23.8.89 (w.e.f. 1.12.89) (F.No.1/5/89-Pers.5).
 3. Entries in Col. 8,9 of Sl. No.2 relating to Director (Tele), Col.8 of S.No.4, 6,7 and 8 as substituted and Deputy Secretary (Tele) as inserted vide Cab. Sectn. Notification No.A-12018/42/89-DOI dt. 21.5.90 (F.No.1/5/89-Pers.5).
 4. Entries in Col. 9 of Sl. No.1 relating to JS (Telecommunication) as substituted vide Cab. Sectn. Notification No.A-12018/27/90-DOI dt. 5.2.91 (F.No.1/8/90-Pers.5).
 5. Note under Col.4 of Sl. No.5 relating to Technical Officer (Telecommunication) as added vide Cab. Sectn. Notification No.A-12018/16/91-DOI dt. 13.2.92 (w.e.f. 6.9.90) (F.No.1/5/91-Pers.5).
 6. Col. No.9 of Sl.No.2 relating to Dir (Tele) & Col. No.4 of Sl. No.8 relating to DFO (Tele) as amended vide Cab. Sectn. Notification No.12018/11/97-DOI dt. 12.11.98 (F.No.1/5/98-Pers.5).
 7. Col. No.9 of Sl.No.2-Dir (Tele) as amended vide Cab. Sectn. Notification No.A-12018/12/99-DOI dt. 22.9.2000 (F.No.1/5/2000-Pers.5).
 8. Note below Col. No. 9 in Sl. No. 2 relating to post of Director (Telecommunication) substituted vide Cab. Sectn. Notification No. A-12018/12/99-DOI/DO.B-A) dt. 24.4.2001 (F.No. 1/5/2000-Pers.5).
 9. Schedule V as substituted vide Notification No.A-12018/17/99-DOI dt. 25.5.01 (F.No.1/5/2000-Pers.3).
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सत्यमेव जयते
Government of India
Ministry of Finance

Report
of the

Fifth



Central Pay Commission

SUPPLEMENTARY REPORT NO. 2

February, 1997

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Supplementary Report No. 2
Cabinet Secretariat

Executive Cadre of 96.27
RS&M

96.27 Non-RAS personnel in the Class I Executive Cadre of R&AW are presently entitled to pay scales on par with those of equivalent posts in the executive cadre of IB. This parity is justified as both these agencies are involved in a similar kind of work. Accordingly we recommend that the present parity between posts in the class I Executive Cadre (Non RAS), Junior Executive Cadre and other intelligence-oriented cadres with comparable posts in IB may be continued. As a result of rationalisation, pay scales of some posts in the IB have been lowered. Such lower scales should also be extended to equivalent posts in the RAW. However, as in the case of IB, present pay scales of the existing personnel manning these posts may be protected with the higher scale being personnel such officials. The parity of officers of the RAS cadre with those of Indian Foreign Service may also be continued. Some of the posts in RAW carry a special pay. The rates of special pay attached to such posts, amongst others, vary from Rs.400 in the case of Under Secretary to Rs.500 in case of Director/Deputy Secretary. These rates approximate the pre-revised ceilings on Central (Deputation on Tenure) Allowance. We have separately recommended that the rate of Central (Deputation on Tenure) Allowance may be fixed at 15 percent of the grade pay with certain restrictions. We are of the view that Special Pay in R&AW should also be modelled in these lines. Accordingly, we recommend that special pay presently available to various categories of staff and officers may now be paid at 15% of the grade pay subject to the same conditions as are applicable to other comparable posts in the Central

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17 -
Secretariat Simultaneously the special pay may be reclassified as special allowance

Upgradation of Senior Field Officers and Equivalent posts

96.28 Presently, the post of Senior Field Officer is in the pay scale of Rs.2000-3500. It is filled by promotion of Field Officers who are in the pay scale of Rs.2000-3200. We have already recommended upgradation of the comparable post of Sub Area Organiser in DGIS (SSB) to the scale of Rs.2200-4000. On the same analogy, we recommend that the post of Senior Field Officer in the Junior Executive cadre, Cryptography cadre, Cartography cadre and Cypher cadre may be placed in the pay scale of Rs.2200-4000. In the case of other cadres like the Telecommunication cadre, Technical Research cadre, Language cadre and Economic Research cadre, 25% of the posts presently in the pay scale of Rs.2000-3500 may be upgraded to the scale of Rs.2200-4000. Simultaneously, 50% of the posts in the scale of Rs.2200-4000 of these cadres should be filled by promotion and the remaining 50% by direct recruitment.

Workshop Cadres

96.29 Presently the post of Assistant Foreman in the workshop cadre is in the pay scale of Rs.1350-2200. Similar posts in other departments of the central government are in the pay scale of Rs.1400-2400. We, accordingly, recommend the pay scale of Rs.1400-2300 for the post of Assistant Foreman in the workshop cadre of R&AW.

Ministerial/Stenographic cadre

96.30 This cadre is patterned on Central Secretariat Services. Elsewhere in the report, we have recommended that 25% of the posts of Section Officers and Private Secretaries in the pay scale of Rs.2000-3500 may be upgraded to that of Desk Officers and Senior Private Secretaries respectively in the pay scale of Rs.2500-4000. This recommendation should be extended in the case of Ministerial/Stenographic cadres of R&AW also.

ACP to Assistant Surgeon

96.31 There is an isolated post of Assistant Surgeon in the pre-revised pay scale of Rs.2200-4000. It has been demanded that this post may be upgraded to the pay scale of Rs.3000-4500. The organisation has not favoured induction of this post in the Central Health Service for various security reasons. Under the circumstances, we find ourselves unable to upgrade this post. However, under the scheme of Assured Career Progression Scheme, the scales of Rs.3000-4500, Rs.3700-5000 and Rs.4500-5700 may be extended to this isolated post on completion of prescribed years of service.

Abolition of Security Allowance

96.32 Presently, a security allowance is admissible to personnel in the ministerial and stenographic cadres up to 15% of their sanctioned strength. We are of the opinion that up allowance of this type is necessary because the primary job of the personnel of this organisation is to collect intelligence involving some element of risk, which cannot be considered to be beyond the call of duty. Accordingly we recommend that the security allowance presently admissible to certain categories of this organisation may be withdrawn, especially in view of the other benefits being extended___??

Reti Fira Accommodation and HRA

96.33 R&AW employees have the option to draw either the central rates of HRA or State Government rates whichever are more beneficial to them in their area of posting. All employees are entitled to rent-free accommodation subject to the condition that their conferees in the State Police as well as IB are eligible to this benefit. We have

Revision
Hardship
Allowance

Special Allowance

received demands that all RAW employees should be eligible for rent-free accommodation without linking this facility with their equals in the state of their posting. This appears to be justified and accordingly we recommend that rent-free accommodation may be provided to all personnel irrespective of the fact whether their conferees in the State Police are eligible to this benefit. Further, in view of the fact that the Cabinet Secretariat comes under the Central Government, all R&AW personnel staying in private accommodation should be paid HRA only at central rates.

Cash Compensation for Working on Holidays

96.34 Presently, all members of the non-gazetted Junior Executive cadre of RAW are eligible for cash compensation for working on holidays, provided their maximum basic pay does not exceed Rs. 3000 per month. PAs/Stenos and their counterparts in other cadres are also eligible for such compensation but in their case the benefit is limited to employees drawing a basic pay of up to Rs. 2,600 p.m. The Personnel of other cadres (Technical Research Cadre, Executive Research Cadre, Staff Ministerial (Except PAs/Stenos) and workshop cadres and CRF and other miscellaneous posts are not eligible to the compensation. This has created a lot of disquietude in the organization, as even personnel of other cadres who are not paid cash compensation also have to work on holidays. There is no concept of OTA in R&AW for the past one decade. We also note that in IB, all non-gazetted personnel are already getting such cash compensation. In view of this, we recommend that all personnel of R&AW of the level of Field Officers and below and their equivalent should be given cash compensation equal to 30 days of basic pay plus DA in a year while they are posted within the geographical territory of India. This compensation will not be admissible during postings abroad.

Ration Allowance

96.35 Presently, ration allowance is admissible to RAW employees in Jr. Executive, Telecom and other intelligence-oriented cadres at B & C stations. It has been demanded that such ration allowance should also be extended to the ministerial and stenographic cadres and miscellaneous employees like Chowkidar, Mali, etc. while posted in such stations. We, however, are of the view that even in B & C stations, staff other than those belonging to the intelligence-oriented cadres, by the very nature of their duties, remain in the headquarters which are usually located in a fair sized city. It may not, therefore, be correct to extend the allowance to ration allowance during their only the personnel of the Executive Cadre are entitled to ration allowance extension of Ration posting in B & C stations. Accordingly we do not recommend extension of Ration Allowance to the ministerial and stenographic cadres or miscellaneous employees.

Revision of Hardship Allowance

96.36 Presently hardship allowance @ 12.5% and 6.25% of the basic pay subject to a ceiling of Rs. 400 p.m. is available in category B and C locations respectively. Since the allowance is linked to basic pay as a percentage, the present ceiling is likely to be exceeded even by the lower categories of personnel following the revision of the pay scales. Accordingly, we recommend that the present ceiling on hardship allowance may be doubled.

Special Allowance

96.37 A special allowance (a) 10% of basic pay has been proposed for personnel of IB upto the level of Inspector. In order to maintain parity between R&AW and IB, we recommend that a special allowance at the same rate may also be granted to R&AW personnel of all cadres up to the level of Field Officers and equivalent during their posting within the geographical boundary of India.

Hardship Allowance and Clothing Grant

96.38 Presently, the staff of R&AW posted to difficult and high altitude areas are paid Hardship Allowance and Clothing Grant at specified rates which are identical to that of IB. We have already recommended doubling the existing rates in respect of these allowances for IB. On the same analogy, the existing rates of Hardship Allowance and Clothing Grant may also be doubled in R&AW.

Scheme of ACP

96.39 In the official memorandum submitted by the R&AW, they have demanded that the scheme of ACP in the case of their organisation should be extended upto Joint Secretary level in the pre revised pay scale of Rs.5900-6700. We are unable to concede this demand as we find no preponderant reason for deviating from the scheme of ACP in the case of this organisation specifically. It has also been demanded that in case the scheme of Assured Career Progression cannot be extended upto Joint Secretary level for all cadres, the same should at least be extended to the four scientific cadres; namely, Technical Research, Telecommunication, Cryptography and Science & Technology. We find ourselves unable to accept this demand either, as elsewhere in the report we have allowed time-bound promotion upto the level of Joint Secretary under Flexible Complementing, so hence only to R&D professionals and the scientific cadres of R&AW do not come within the definition of R&D professionals. Hence, we recommend that all cadres of R&AW should be governed by the normal scheme of Assured Career Progression recommended by us in the general report.

JOINT INTELLIGENCE COMMITTEE

Introduction & General Recommendations

96.40 Joint Intelligence Committee is headed by a Chairman in the rank of Secretary to the Government of India. This Committee acts as coordinating machinery between various intelligence agencies of the country. Barring the categories of staff car driver, despatch rider and group 'D' staff, all other posts in this organisation are filled on deputation. Our general recommendations in respect of categories of staff car driver, despatch rider and group 'D' staff will equally apply to persons holding these posts in the Joint Intelligence Committee.

SPECIAL PROTECTION GROUP

Introduction & General Recommendations

96.41 Special Protection Group (SPG) is a specialised force created for protection of specified categories of VIPs and their families. SPG was conceived as a fully deputationist force and as such all its posts are filled in on transfer on deputation basis. Although incumbents are entitled to draw the pay and allowances, including special pay and allowances, if any, as admissible to them in their parent department, presently the facility of rent free accommodation to those deputationists of SPG who were entitled to the same in their parent department is not available. We have already recommended rent-free accommodation for personnel of R&AW and are of the opinion that this facility deserves to be extended in case of personnel of SPG also. However, all SPG personnel staying in private accommodation should be paid HRA only at central rates.

Upgradation of monthly amount for receipts of

96.42 We have separately recommended an increase in the monthly amounts being given to awardees of the President's Police Medal for Gallantry and Police Medal

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President's Police
Medal and Police
Medal

Others

Financial
Implications

for gallantry to Rs.200 and Rs.120 respectively. This recommendation will equally apply to awardees of these gallantry medals in the Cabinet Secretariat as well.

96.43

Posts in the Secretariat other than those which have been specifically discussed by us in the preceding paragraphs have standard scales of pay. The corresponding replacement pay scales recommended by us will apply equally to them.

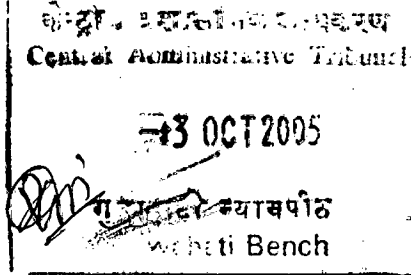
96.44

The financial implications of our recommendations in this chapter have been included in the overall figure mentioned in the Main Report.

(S. Ratnavel Pandian)
Chairman

(Suresh Tendulkar)
Member

(M.K. Rao)
Member Secretary



1

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

OA NO. 109/2005

SHRI K. C. SWAIN

.....APPLICANT

-VERSUS-

UNION OF INDIA & ORS

.....RESPONDENTS

WRITTEN STATEMENT FILED BY THE RESPONDENTS

- 1) That the respondents have received copy of the OA and have gone through the same and have understood the contentions made thereof. Save and except the statements, which are specifically admitted herein below, rests may be treated as total denial. The statements, which are not borne on records, are also denied and the applicant is put to the strictest proof thereof.
- 2) That the respondents beg to place the brief history of the case before traversing the various paragraphs of the OA.

It is respectfully submitted that the applicant in the present OA No. 109/2005 has contended that the pay scale of Rs. 5500-175-9000/- of the DFO (T) may be granted to AFO (T) as duties performed by the officials in both the grades are same and equal.

The applicant, Shri K. C. Swain, AFO (T), had earlier filed an OA No.418/2004 in Kolkata Bench of Hon'ble CAT praying for grant to AFO (T) of same scale as applicable to DFO (T) on the grounds that both AFO (T) & DFO (T) perform the same duties. The Hon'ble CAT allowed withdrawal of the said OA as sought for by the applicant. The Hon'ble CAT's order dated 8.6.2004 is annexed as Annexure-A to the OA. In the said order, while dismissing the OA as withdrawn, the Hon'ble CAT had further observed that the applicant is at liberty to file a detailed representation and if filed, the respondents would consider the said representation and dispose of the same by passing a reasoned and speaking order within a period of 2 months. It was also mentioned therein that in case the applicant has any further grievance in the matter or if he is any way aggrieved by the decision of the concerned authorities, he would be at

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Filed by xy
the Respondents through
Alsha Das
Addl CHSC
3/10/05

liberty to approach the appropriate forum for redressal of the grievances in accordance with the law.

Shri K. C. Swain, AFO (T) then made a representation dated 27.7.2004 (Annexure B to the OA) addressed to the Secretary which was comprehensively examined by the respondents department and with the approval of the competent authority, Shri K. C. Swain, AFO (T) was given a detailed Para-wise reply vide memo No. 1/5/04- Pers.3 dated 27.9.2004 (Copy enclosed as Annexure D to the OA). In said reply, the respondents has given a very comprehensive /clear-cut reply to points rose by the applicant. It was clarified that there is no parity between AFOs (T) & DFOs (T) as their educational qualification, experience and level of responsibilities are distinct and not comparable. It was also mentioned therein that as for prescription/revision of pay scale of the Government employees, the Central Pay Commissions, which are constituted by the Government from time to time, is the specialized body to examine the pay structure of the posts in any cadre of the Departments of the Government of India.

The applicant had made submission for direction of the Hon'ble Tribunal for production of copies of following documents/office records to substantiate his contentions:-

- a) Daily Station Diary.
- b) DTRs.
- c) Duty Roster.
- d) Monthly Merit List
- e) Seniority List of AFOs(T)
- f) Seniority List of DFOs(T)
- g) Book of R&AW (Recruitment, Cadre and Service) Rules
- h) Book of Departmental Standing Orders.

It is submitted that above mentioned documents are not at all relevant to contentions made by the applicant in the OA, that nature of duties and level of responsibilities of DFOs(T) and AFOs(T) are same and equal. The documents mentioned at (g) and (h) above viz. Book of R&AW (Recruitment, cadre and service) Rules and Book of Departmental Standing Orders are not at all relevant to the case. While R&AW (Recruitment, Cadre and Service) Rules contains provisions of recruitment rules for filling posts in various Cadres in this Organization, the Departmental Standing Orders is only a compilation of various internal departmental instructions issued from time to time. These documents contained nothing as far as nature of duties and level of responsibilities of

DFOs(T) and AFOs(T) are concerned. Seniority Lists of AFOs(T) and DFOs(T) only include the names of incumbents in these grades and have no relevance to nature of duties or responsibilities of the incumbents in these grades. The other documents mentioned at (a) a to (d) above also relate to operational and technical functioning of the units where AFOs(T), DFOs(T) and other personnel of the Telecommunication Cadre are deployed and are classified in nature.

- 3) That with regard to the statement made in paragraph 2 & 3 of the OA, the respondents beg to offer no comment.
- 4) That with regard to the statement made in paragraph 4.1 of the OA, the respondents beg to state that the statement being factual in nature, requires no comments.
- 5) That with regard to the statement made in paragraph 4.2 and 4.3 of the OA, the respondents beg to state that detailed speaking and reasoned reply to the representation submitted by the applicant in compliance with the Hon'ble CAT, Kolkata Bench's order dated 8.6.2004, was given under memo No. 1/5/04-Pers.3 dated 27.9.2004 (Annexure D to OA). All the contentions made by the applicant for up gradation of pay scale of AFO (T) from Rs. 4000-100-6000/- to Rs. 5500-175-9000/- of the post of DFO(T) were convincingly rebutted.
- 6) That with regard to the statement made in paragraph 4.4 of the OA the respondents while denying the contentions made therein beg to state that duties of AFOs (T) and DFOs (T) are of same nature and of equal responsibilities. The nature of duties/functions of DFOs (T) are quite distinct and cannot be equated with lower feeder grade post of AFOs(T). There is no parity between AFOs(T) and DFOs(T) as their educational qualifications, experience and level of responsibilities are distinct and are not comparable. The contention of the applicant is factually incorrect. DFOs(T) are generally entrusted with higher level of responsibilities in comparison to AFOs(T). The directly recruited DFOs(T) are more qualified in terms of educational qualifications and attend to the duties of maintenance of various sophisticated equipment of Telecommunication Wing. They are also involved in procurement, operation & maintenance of Electronic & Telecommunication equipment. Their duties cannot be compared with the routine nature of trade related

jobs being handled by the AFOs(T) which is the lowest grade in the Telecommunication Cadre.

- 7) That with regard to the statement made in paragraph 4.5 of the OA, the respondents beg to state that a detailed speaking and reasoned point-wise reply on points raised by the applicants was given vide memo No.1/5/04-Pers3 dated 27.9.2004. All the contentions made by the applicant of pay scale of AFOs(T) from Rs.4000-100-6000/- to Rs5500-175-9000/- of the post of DFOs(T) were comprehensively examined and convincingly rebutted.
- 8) That with regard to the statement made in paragraph 4.6 of the OA, the respondents beg to state that as regards applicant's representation dated 28.2.2005, the documents mentioned therein are not at all relevant to contentions made by the applicant in the OA, that nature of duties and level of responsibilities of DFOs (T) and AFOs (T) are same and equal. The document mentioned at (g) and (h) above viz., Book of R&AW (Recruitment, Cadre and Service) Rules and Book of Departmental Standing Orders are not at all relevant to the case. While R&AW (Recruitment, Cadre and Service) Rules contains provisions of recruitment rules for filling posts in various Cadres in this Organization, the Departmental Standing Orders is only a compilation of various internal departmental instructions issued from time to time. This contains nothing ad far as nature of duties and level of responsibilities of DFOs (T) and AFOs (T) is concerned. Seniority List of AFOs (T) and DFOs (T) only include the names of incumbent in these grades and have no relevance to nature of duties or responsibilities of the incumbents of posts in these grades. The other documents mentioned at (a) to (d) above also relate to operational and technical functioning of the units where AFOs (T), DFOs (T) and other personnel of the Telecommunication Cadre are deployed. These records though are of classified in nature, will be produced for perusal of Hon'ble Tribunal, if so desired.
- 9) That with regard to the statement made in paragraph 4.7 of the OA, the respondents beg to state that documents sought by the applicant to substantiate his claim that nature of works/function/duties and level of DFOs (T) and AFOs (T) are same and equal, are not at all relevant to the contentions made by the applicant. Further, some

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of the documents requested by the applicant are of classified nature and cannot be parted with unless the Hon'ble Tribunal so desired.

- 10) That with regard to the statement made in paragraph 4.8 of the OA, the respondent beg to state that it was factually explained vide Para 1 to 10 of Memo No. 1/5/04-Pers.3 dated 27.9.2004 that nature of duties and level of responsibilities of DFO (T) and AFO (T) are quite distinct and are not comparable. Hence higher pay scale of DFO (T) cannot be grant to the applicant.
- 11) That with regard to the statement made in paragraph 4.9 of the OA, the respondents beg to state that the contentions of the applicant that AFOs (T) are performing the same nature of duties of DFOs (T) is factually incorrect. The duties of AFOs (T) and DFOs (T) are different and are not comparable. The post of AFOs (T) is a feeder grade post of DFO (T). The qualification and level of responsibilities of these two posts are distinct and are not comparable at all. Whereas the minimum qualification for direct recruitment to the post of DFO (T) is at the level of Graduation in Science or equivalent, minimum qualification prescribed for the post of AFO (T) is only Matriculation or equivalent with Diploma in Radio servicing or Radio Engineering, etc. The minimum qualifications prescribed for direct recruitment to the pot of DFO (T) are higher than that of AFO (T). DFO (T) is generally entrusted with higher level of responsibilities in comparison to AFO (T). The directly recruited DFO (T) are more qualified and can handle job more efficiently than AFO (T) who are less qualifies for the job.
- 12) That with regard to the statement made in paragraph 4.10 of the OA, the respondents beg to state that large number of representations were received from AFOs (T) requesting for revision of pay scale on the lines of pay in MEA and other Organization like Police Wireless. The points raised therein had been examined and it was not found feasible to accede to their request for up gradation of the post of AFO (T) to the grade of DFO (T). As already mentioned above, the Central Pay Commission constituted by the Government from time to time is the specialized body to examine the pay structure of the posts in any Cadre of the departments of Government of India. Since nature of duties and responsibilities are distinct and not comparable as explained in the preceding paragraphs, the grade of AFO (T) cannot

be feeder grade for promotion to the grade of FO (T). The grade of DFO (T) can only be the feeder grade for promotion to the grade of FO (T) in the hierarchy of Telecommunication Cadre. The contention of the applicant for grant of higher pay scale Rs.5500-175-9000/- for the post of DFO (T) is misleading and factually incorrect.

- 13) That with regard to the statement made in paragraph 4.11 to 4.13 of the OA, the respondents while denying the contentions made therein beg to state that no comparison can be drawn with the supervisory gazetted post of ATO/TO with post of AFO (T)/DFO (T). The pre-revised scale of ATO was Rs.2000-3500/- whereas the feeder grade of FO (T) was Rs. 2000-3200/-. The scale of pay for both these grades was almost identical with the same rate of increment. The same scale of pay was prescribed for equivalent posts in other cadres viz. FO/SFO in Junior Executive Cadre, Cipher Cadre, Cryptographic Cadre, Cartographic, CRF, RA/ARO in Economic Research and Technical Research Cadre, AFLE/DFLE in Language Cadre. The Vth Central Pay Commission prescribed the revised scale of pay for all these grades viz. SFO/ATO/ARO/AFLE as Rs.8000-13, 500/- with effect from 1.1.96 bringing these posts at par with the post of TO/RO/DFLE. Earlier to Vth Pay Commission, ATO/ARO/AFLE were promoted to the post of US after rendering 8 years regular service in the grade against specific quota prescribed in the recruitment Rules. Now w.e.f 1.1.96 the ATO/ARO/AFLE are promoted to the rank of US after completing 5 years of eligibility service against the said prescribed quota in the rules. In Telecommunication Cadre, 80% posts of US are earmarked for promotion from the grade of ATO and 20% post of US from the grade of TO. TOs are appointed directly on the basis of Competitive Examination and no ATOs were promoted to the grade of TO even prior of Vth Central Pay Commission. However, prior to 1986, 50% posts of TOs were filled up by promotion from ATO, 20% by direct recruitment and 30% by deputation/reemployment. On the basis of comprehensive Cadre Review and Government orders issued thereon, effective from 10.5.1986, 15 posts of TOs were abolished and all remaining posts of TOs were ordered to be filled by direct recruitment only. Thereafter, ATOs/TOs with 8 years and 5 years service respectively became eligible for promotion to the posts of ATO/TO, the prescribed quota were changed as 80% from ATOs and 20% from TOs keeping in view the total number of sanctioned posts in these two feeder grade posts. The situation in the grade of FO (T) is quite different. AFOs (T) are

appointed in the scale of pay of Rs 4000-6000/- having the requisite lower qualification of Matriculation with Diploma in Radio Servicing etc. as prescribed in the Recruitment Rules. Whereas DFOs (T) are appointed with the requisite educational qualifications of Degree in Science with Physics and Mathematics etc. as prescribed in the Recruitment Rules. As per provision of R/Rules, 30% posts of DFOs(T) are filled by promotion from the feeder grade of AFOs(T) and 65% by direct recruitment and 5% by deputation/re-employment. The post AFO (T) cannot be made equivalent to the post of DFO (T) as the qualifications, experience and level of responsibilities and duties of these posts are distinct and not comparable.

- 14) That with regard to the statement made in paragraph 4.14 of the OA, the respondents while denying the contentions made therein beg to state that no assurance was given by the Shri P.V. Kumar, Addl. Secretary (Tele) and Shri Manan, Director (TM) that all AFOs (Tele) will be made DFOs (Tele).
- 15) That with regard to the statement made in paragraph 4.15 of the OA, the respondents do not offer any comment.
- 16) That with regard to the statement made in paragraph 5.1 to 5.3 of the OA, the respondents beg while denying the contentions made therein beg to state that duties of AFOs (T) and DFOs (T) are quite distinct and cannot be equated with lower feeder grade post of AFOs (T). There is no parity between AFOs (T) and DFOs(T) as their educational qualification, experience and level of responsibilities are distinct and not comparable. The contention of the applicant is factually incorrect. DFOs (T) are generally entrusted with higher level of responsibilities in comparison to AFOs (T). The directly recruited DFOs (T) are more qualified in terms of educational qualification and attend to the duties of maintenance of various sophisticated machines of Telecommunication Wing. They are also involved in procurement, operation and maintenance of Electronic and Telecommunication equipment. Their duties cannot be compared with the routine nature of trade related jobs being handled by the AFOs (T) which is the lowest grade in the Telecommunication Cadre.

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- 17) That with regard to the statement made in paragraph 5.4 and 5.5 of the OA, the respondents while denying the contentions made therein beg to state that the contentions of the applicant that both AFOs (T) and DFOs (T) are performing the duties within the same roster and superior officers assess the quality and standard of performance of both AFOs (T) and DFOs (T) placing them in the same merit list is not correct. The work and conduct of every official is assessed on individual basis and it is suitably reflected in the individual's ACRs accordingly. This does not have any bearing on the prescription of pay scales.
- 18) That with regard to the statement made in paragraph 5.6 of the OA, the respondents while reiterating and reaffirming the statement made above beg to state that as already stated in the preceding paragraphs that nature of duties and responsibilities are not same and equal.
- 19) That with regard to the statement made in paragraph 5.7 to 5.9 of the OA, the respondents beg to state that it is denied that DFOs (T) on joining are imparted training to acquaint them with the work and duties as are being performed by the AFOs (T). In fact, the minimum qualifications prescribed for direct recruitment to the post of DFOs (T) is much higher than that of educational qualifications prescribed for direct recruitment to post of AFOs (T). Newly recruited DFOs (T) are imparted Advance Technical Training to train them for the duties of the post held by them. AFOs (T) are however imparted on the job technical training during their service to equip them with the functions of the post held by them. The levels of responsibilities and duties of these two posts are not comparable. Hence, no comparison can be drawn between AFOs (T) and DFOs (T).
- 20) That with regard to the statement made in paragraph 5.10 of the OA, the respondents while denying the contentions made therein most respectfully beg to submit that no comparison can be drawn between the duties of supervisory gazetted posts of ATO (Tele)/TO (Tele) with that of AFO (T)/DFO (T). While the posts of AFO (T) and DFO (T) are Group 'B'/'C' non-gazetted posts, the post of TO (Tele) is Group 'A' gazetted post, filled exclusively by direct recruitment from candidates possessing Degree in Engineering or Technology from a recognized University in the subjects as specified in the Recruitment Rules. Prior to recommendation of the Vth Central Pay Commission w.e.f., the pre-revised pay scale of ATO(Tele) was

Rs.2000-60-2300-75-3200-100-3500/- as against pay scale of Rs. 200-60-2300-75-3200/- for feeder grade of FO(T). Since the pay scale of both the posts were almost identical with same rate of increment, pay scale of post of ATO (Tele) and that of equivalent posts in other Cadres, was upgraded by Vth Central Pay Commission to Rs. 8000-275-13,500/- at par with that of post of TO (Tele) and equivalent posts in other Cadres. It is not out of place to mention that grant and revision of pay scales are done by the Pay Commissions after exhaustive analysis of various factors including nature of functions of the posts, responsibilities and qualification.

21) That with regard to the statement made in paragraph 5.11 of the OA, the respondents beg to state that large number of representations were received from AFOs(T) requesting for revision of pay scale on the lines of pay in MEA and other Organization like Police Wireless. Points raised therein had been examined and it was not found feasible to accede to their request for up gradation of the post of AFO (T) to the grade of DFO (T). As already mentioned above, the Central Pay Commission constituted by the Government from time to time is the specialized body to examine the pay structure of the posts in any Cadre of the departments of Government of India. In this connection, it is further pointed out that the pre-revised scale of AFO (T) was Rs. 1320-30-150-EB-40-2040/- and the normal revised replacement scale as recommended by Vth Central Pay Commission and approved by the Government is Rs. 4000-100-6000/- which has correctly been prescribed. The same scale of pay has been prescribed for equivalent posts in other Cadre also. In other sister Organizations viz. IB and ARC also, the scale of pay of posts of JIO-I equivalent to AFO is Rs. 4000-6000/- only. There is no parity between AFO (T) and DFO(T) as their levels of responsibilities and duties are quite distinct and not comparable.

22) That with regard to the statement made in paragraph 5.12 and 5.13 of the OA, the respondents most respectfully beg to submit that detailed and reasoned replies to representations submitted by the applicant in compliance with Hon'ble CAT, Kolkata Bench's order dated 8.6.2004, was given under memo No. 1/5/04-Pers.3 dated 27.9.2004. All the contentions made by the applicant for up gradation of pay scale of AFO (T) from Rs. 4000-100-6000/- to Rs. 5500-175-9000/- of the post of DFO (T) were convincingly rebutted.

- 23) That with regard to the statement made in paragraph 5.14 and 5.15 of the OA, the respondents beg to state that the application of the applicant dated 27.9.2004 was comprehensively examined as per direction of the Hon'ble CAT's Order dated 8.6.2004 and a detailed reply based on facts was given to the applicant. The contentions of the applicant that the said reply dated 27.9.2004 was erroneous, misconceived and shows non-judicious attitude is totally misplaced.
- 24) That with regard to the statement made in paragraph 5.16 of the OA, the respondents most humble beg to state that regarding plea for production of documents mentioned in the document mentioned in para 2 above, it is states that these documents are not at all relevant to contentions made by the applicant in the OA, that nature of duties and level of responsibilities of DFOs(T) and AFOs(T) are same and equal. The document mentioned Para 2 (g) and 2(h) above viz., Book of R&AW (Recruitment, Cadre and Service) Rules and Book of Departmental Standing Orders are not at all relevant to the case. While AR&AW (Recruitment, Cadre and Service) Rules contains provisions of recruitment rules for filling posts in various Cadres in this Organization, the Departmental Standing Orders is only a compilation of various internal departmental instruction issued from time to time. This contains nothing as far as nature of duties and level of responsibilities of DFOs (T) and AFOs (T) is concerned. Seniority Lists of AFOs (T) and DFOs (T) only include the names of incumbent in these grades and have no relevance to nature of duties or responsibilities of the incumbents of posts in these grades. The other documents mentioned at (a) to (d) above also relate to operational and technical functioning of the units where AFOs (T), DFOs (T) and other personnel of the Telecommunication Cadre are deployed. These records are though of classified in nature, will be produced for perusal of Hon'ble Tribunal, if so desired.
- 25) That with regard to the statement made in paragraph 5.17 of the OA, the respondents while denying the contentions made therein beg to state that the contentions made by the applicant is not correct. As per provision under FRSR-Part I, the pay of a person on direct recruitment to a post will be fixed at the minimum of the scale of pay of the post to which the employee has been appointed.

- 26) That with regard to the statement made in paragraph 5.18 of the OA, the respondents while reiterating and reaffirming the statements made above beg to state that the nature of duties and responsibilities of AFOs (T) and DFOs (T) are quite distinct and not comparable. The post of AFO (T) is a feeder grade post of DFO (T). The post of DFO (T) is a Group 'B' (non-gazettes) whereas the post of AFO (T) is Group 'C' post.
- 27) That with regard to the statement made in paragraph 5.19 & 5.20 of the OA. The respondents beg to state that the point raised by the applicant has already been clarified vide Para 20 above.
- 28) That with regard to the statement made in paragraph 5.21 of the OA, the respondents most respectfully submitted that detailed speaking and reasoned reply to the representation submitted by the applicants in compliance with Hon'ble CAT, Kolkata Bench's order dated 8.6.2004, was given vide memo No. 1/5/04 Pers.3 dated 27.9.2004, which was based on facts and we do not have anything more to add.
- 29) That with regard to the statement made in paragraph 5.22 to 5.24 of the OA, the respondents while denying the contentions made therein beg to rely and refer upon the statement made above and further beg to submit that the contentions made by the applicant is totally misplaced as already clarified in preceding paragraphs.
- 30) That with regard to the statement made in paragraph 5.25 to 5.26 of the OA, the respondents while denying the contentions made therein beg to state that the department has not violated any principle of natural justice or acted in any way in violation of any articles of the Constitution of India. The Government based on recommendation of the Central Pay Commission constituted by the Government of India from time to time prescribes the pay scale of any post. The post of AFO (T) is Group 'C' post and the lowest entry grade in Telecommunication cadre and the scale of pay as prescribed by the Government has correctly been given to him.
- 31) That with regard to the statement made in paragraph 5.27 of the OA, the respondents beg to offer no comment.
- 32) That with regard to the statement made in paragraph 5.28 of the OA, the respondents beg to state that this point has already been clarified vide paragraph 20 above. The contentions of the applicant are totally misplaced.

- 33) That with regard to the statement made in paragraph 5.29 of the OA, the respondents beg to state that no discrimination has been made in regard to pay scale and other service benefits. Pay scale has been prescribed to the post of AFOs(T) in accordance with the Government orders based on the recommendation of Vth Central Pay Commission.
- 34) That with regard to the statement made in paragraph 5.30 of the OA, the respondents beg to submit that there is no comparison between ATO and AFO (Tele). As promotion to the grade of Under Secretary, there are two feeder grade posts as prescribed in Recruitment Rules viz. ATO & TO: 80 % posts of Under Secretary (Tele) is filled by promotion from ATO (Tele) and 20 % posts of Under Secretary from TO (Tele). The percentage of quota of 80% from ATO & 20% from To for promotion to the grade of Under Secretary was fixed with the concurrence of DoP&T based on the number of sanctioned posts in these two feeder grade posts and necessary amendment to the Recruitment Rules was notified. The situation in the case of AFO (T) is quite different. The AFO (T) is the feeder grade post of DFO (T). The Post of DFO (T) is filled as per notified Recruitment Rules viz. 65% by direct recruitment, 30 % by promotion of AFO (T) with 10 years of service and 5% by deputation/re-employment.
- 35) That with regard to the statement made in paragraph 6 of the OA, the respondents do not offer any comment.
- 36) That with regard to the statement made in paragraph 7 of the OA, the respondents beg to state that the applicant has filed an OA No. 418/2004 in the Hon'ble CAT, Kolkata Bench and he withdraw the said OA and accordingly the said OA was dismissed as withdrawn vide Hon'ble CAT's order dated 8.6.2004.
- 37) That with regard to the statement made in paragraph 8.1 & 8.2 of the OA, the respondents while denying the contentions made therein beg to state that the reply given to the applicant dated 27.9.2004 is based on facts as per rule position. All the contentions made by the applicant for up gradation of pay scale of AFO (T) from Rs. 4000-100-6000/- to Rs. 5500-175-9000/- equivalent to the post of DFO (T) are baseless and cannot be acceded to.
- 38) That with regard to the statement made in paragraph 8.3 of the OA, the respondents while denying the contentions made therein beg to state that regarding applicant's plea for production of documents motioned in Para 2 above, it is stated that these

documents are not at all relevant to contentions made by the applicant in the OA, that nature of duties and level of responsibilities of DFO (T) and AFO (T) are same and equal. The document mentioned Para 2(g) and 2 (h) above, Book of R&AW (Recruitment, Cadre and Service) Rules and Book of Departmental Standing Orders are not at all relevant to the case. While R&AW (Recruitment, Cadre and Service) Rules contains provisions of recruitment rules for filling posts in various Cadres in this Organization, the Departmental Standing Orders is only a compilation of various internal departmental instruction issued from time to time. This contains nothing as far as nature of duties and level of responsibilities of DFOs (T) and AFOs (T) is concerned. Seniority Lists of AFOs (T) and DFOs (T) only include the names of incumbent in these grades and have no relevance to nature of duties or responsibilities of the incumbents of posts in these grades. The other documents mentioned at (a) to (d) above also relate to operational and technical functioning of the units where AFOs(T), DFOs(T) and other personnel of the Telecommunication Cadre are deployed. These records are of classified nature, will be produced for perusal of Hon'ble Tribunal, if so desired.

- 39) That with regard to the statement made in paragraph 8.4 of the OA, the respondents while denying the contentions made therein beg to state that no comparison can be drawn between two grades, as their nature of duties and responsibilities are different. The educational qualification prescribed for appointment to the grade of AFO (T) and DFO (T) are quite different. The pay scale as prescribed for AFO (T) is only applicable to them. He cannot claim the pay scale prescribed for DFO (T) to which he was not appointed.
- 40) That with regard to the statement made in paragraph 8.5 of the OA, the respondents while denying the contentions made therein beg to state that there is no question of prescribing 80% posts of Field Officer (Tele) to be filled by AFO (T) as the post of AFO (T) is the feeder grade post of DFO (T) and not FO (T). He can climb the ladder as per hierarchical structure of the cadre and cannot jump the ladder.
- 41) That with regard to the statement made in paragraph 8.6 of the OA, the respondents while denying the contentions made therein beg to state that the OA filed by the applicant has no merit and deserved to be dismissed by the Hon'ble Tribunal with costs.

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VERIFICATION

I Shri Arvind Kumar

aged about 39 years at present working as

Deputy Commissioner, Spl Bureau, Gunaahati.
....., who is taking steps in this case, being duly authorized ^{on behalf of respondent} and

competent to sign this verification, do hereby solemnly affirm and state that

the statement made in paragraph

1 are true

to my knowledge and belief, those made in paragraph

2-41 being matter of records, are

true to my information derived there from and the rest are my humble

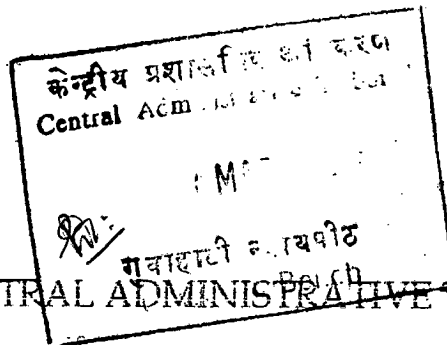
submission before this Humble Tribunal. I have not suppressed any material

fact.

And I sign this verification this 2nd the day of Oct 2005 at 10.20 a.m

Place: Gunaahati
Date: 2/10/05

Arvind
2/10/05
(Arvind Kumar)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH: GUWAHATI

In the matter of:-

O.A. No. 109 of 2005.

K. C. Swain

.....Applicant

-Vs-

Union Of India & Ors.

.....Respondents.

-And-

In the matter of:-

Rejoinder submitted by the Applicant in
reply to the written statement submitted
by the Respondents.

The applicant above named most respectfully begs to submit that:

1. That the applicant has gone through the copy of the Replies of the respondents concerned served on 08.09.05 and on 03.10.05 respectively (hereinafter referred as 'said reply 1' and 'said reply 2') and have noted the contents and purports thereof.
2. That the applicant has been advised to traverse all the statements/contentions as contained in the said reply 1 and said reply 2 as such what is specifically admitted as per the matters of records. Applicant denies and disputes all other statements and/or contentions as made in the said reply 1 and said reply 2 and the respondents are put to the strict proof thereof.

(74)
Filed by the applicant
through S. Nath.
Telwar.
06/03/06

3. That before dealing with the statements/contentions as made therein Para-wise, the applicant begs to state hereunder the facts proper consideration as well as adjudication of the aforesaid matter: -

I. That the respondents concerned has repeatedly denied the very object of the case that nature of works/functions/duties and level of responsibilities of DFOs (T) and AFOs (T) are same and equal.

II. That on the name of reply, the respondents concerned communicated the said impugned memorandum dated 27.09.2004, but it can not be said that the respondents concerned disposed of the matter of the said grievance application dated 27.07.2004 convincingly in accordance with law and/or in accordance with the direction contained in the order dated 08.06.2004 passed by the Hon'ble Tribunal, Kolkata Bench in the matter of AFO (T)/O.A. No. 418/2004. This instant application is, therefore, moved, against the said memorandum dated 27.09.2004, before this Hon'ble Tribunal so that the material facts and factors of this case can come out for redressal of the said grievance of the applicant in accordance with law.

III. That through the representation (herein Annexure 'A') dated 28.02.2005, addressed to the respondent No. 1, this applicant and Shri Simul Datta, AFO (T) (another applicant of the same matter, being O.A. No. 110/2005) requested to supply the copies of office records which substantiate the truth ness and correctness of the very object of the case that nature of works/functions/duties and level of responsibilities of DFOs (T) and AFOs (T) are same and equal. But till the date the respondents concerned do not supply the above-mentioned copies to the applicants and for while the applicant can not enclose the above-mentioned copies with this rejoinder also.

In this context it needs to be mentioned that in Para 3) h) of the said reply 1 and in Para 24) of the said reply 2, it is stated by the

respondents concerned that the above-mentioned copies/records will be produced for perusal, if the Hon'ble Tribunal desires so.

IV. That in reply to the above-mentioned representation dated 28.02.2005, the respondents concerned communicated, to this applicant, the memorandum dated 02.05.05 (herein Annexure 'B'), which is as hereunder: -

"1. Shri K. C. Swain, AFO (T) may refer to his representation dated 28.02.2005 addressed to Secretary in reference to Hqrs. Memo No. 1/5/04 dated 27.09.04.

2. He is informed that the matter is under consideration with Hqrs and further communication would follow in due course."

From the above-mentioned memorandum dated 02.05.05 also, it is crystal clear that through the said impugned memorandum dated 27.09.2004, the respondents did not consider the matter of the said grievance application dated 27.07.2004 in accordance with law and/or in accordance with the direction contained in the order dated 08.06.2004 passed by the Hon'ble Tribunal Kolkata Bench in the matter of AFO(T)/O.A. No. 418/2004.

V. That the impugned memorandum dated 27.09.2004, was issued by the respondents organization as own on this or that pretext, repeatedly denied the following records of the case which substantiate the truth ness and correctness of the very object of the case that nature of works/functions/duties and level of responsibilities of DFOs(T) and AFOs(T) are same and equal.

a) Copies of the Daily Station Diary wherein duties/works responsibilities as performed by AFOs(T)/DFOs(T) are made entry for office-records.

- b) Copies of the DTRs which also evince that nature of works/functions/duties and level of responsibilities for DFOs(T) and AFOs(T) are same and equal.
- c) Copies of the Duty Roster wherein Morning or Afternoon or Night or General-Shift duties as assigned for AFOs(T) /DFOs(T) are mentioned.
- d) Copies of the Monthly Merit list wherein records of Month wise output of the Duties/Responsibilities as done by AFOs(T) & DFOs(T) are mentioned.
- e) Copies of the latest Seniority List of AFOs (T) which indicates numbers of AFOs(T) working in this Organisation is about 250 and further from the seniority list, made for AFOs(T) as on 22/10/2003, it is noted that after 05.06.98, recruitment to the post of AFOs(T) has been stopped .
- f) Copies of the latest Seniority List of DFOs (T) which Indicates numbers of DFOs (T) working in this Organisation is about 800.
- g) Book of R& AW (Recruitment, Cadre and Service) Rules.
- h) Book of respondent Departmental standing Orders.

VI. That the entire records of the case including the records of the observations/reports of the Tele-Communication Cadre Review Committee and the records of the aforesaid copies/office records, if, are produced by the respondents concerned, for adjudication of the points at issue, the truth ness and correctness of the very object of the case will come out before this Hon'ble Tribunal for redressal

of the said grievance of the applicant in accordance with law that nature of works/functions / duties and level of responsibilities of DFOs(T) and AFOs(T) are same and equal and which have been repeatedly denied by the respondents.

- VII. That in the similar facts and circumstances, the respondents Union of India considering the performance of similar nature of job, duties and responsibilities both by the incumbents holding the post of ATO i.e. Assistant Technical officer as well as by the Technical Officer in the respondents organization have extended same pay scale of Rs. 8,000-275-13,5000/-, although the recruitment conditions/recruitment qualifications, Recruitment Rules and rank and status are different even then the Govt. of India, more particularly the respondents U.O.I have extended same pay scale only on consideration of the fact that both the cadres of Assistant Technical Officer and Technical Officer are discharging similar duties and responsibilities. On the mere perusal of the recruitment rules of the cadre of Technical officer and Assistant Technical Officer it would be evident from the Recruitment qualification and Recruitment by the separate recruitment rules, but the respondents department Rules are different and both the cadres indicate above are governed on consideration of the fact extended the same service status/ benefits including pay scale of Rs. 8,000-275-13,5000/- to the post of Assistant Technical Officer, which is allotted to the post of Technical Officer by the respondents Union of India. It is evidently true and crystal clear that the performance of nature of job, duties and responsibilities both by the incumbents holding the post of AFO (T) i.e. Assistant Field officer (Tele) as well as by the DFO(T) i.e. Deputy Field Officer(Tele) being similar, the applicant is also similarly circumstanced entitled to similar service status/ benefits

including pay scale which is allotted to the post of DFO(T) by the respondents Union of India .

VIII. That from the said Recruitment Rules, as enclosed therewith the said reply¹ by the respondents concerned as Annexure R1, it is crystal clear that when the incumbents of ATO/TO are promoted to the post of Under Secretary, at that time, the factors of qualification and experience do not need to apply and similarly when the incumbents of AFO (T)/DFO (T) are promoted to the post of FO (T) i.e. Field Officer (Tele) i.e. Group-B Non-Gazetted post, at that time also, the factors of qualification and experience do not need to apply . Further it is crystal clear that the service status and benefits including pay scale, promotion, ACP, etc. at par with TO i.e. Group-A Gazetted post, i.e. the topmost grade of the Central Government Service, was approved for the ATOs by the respondents Union Of India, without applying any question about the factors of qualification and experience of the ATOs, only on application of consideration into the very object of the case of ATOs that the performance of nature of job, duties and responsibilities both by the incumbents holding the post of ATO i.e. Assistant Technical officer as well as by the Technical Officer in the respondents organization being similar.

IX. That the pre-revised scale of pay of the ATOs was Rs. 2,000 - 60-2,300 - 75 - 3,200 - 100 - 3,500 i.e. S-12 which has been revised by the Vth Pay Commission to Rs. 6,500- 200 -10,500 which is crystal clear from the CCS (Revised Pay) Rules, 1997 hereto marked as Annexure - 'C' and it is evidently clear that only considering the very object of the case of ATOs that the performance of nature of job, duties and responsibilities both by the incumbents holding the post of ATO i.e. Assistant Technical officer as well as by the Technical Officer in the respondents organization being similar ,

disputes the correctness of the statements and/or contentions made therein save and except what are matters of records of the case, the applicant repeat and reiterate the paragraph 1, 2 & 3 of the instant Original Application, being O.A. No.109 and all the statements as stated hereinabove. At the outset it is stated that the Original Application, being O.A. No.109, is sufficiently bonafide for ends of Justice and sufficiently maintainable in Law or in fact. Once again, my respectful submission remains before this Hon'ble Tribunal that the entire records of the case including the records of the observations/reports of the Tele-Communication Cadre Review Committee and the records of the following copies/office records, if, are produced by the respondents concerned, for adjudication of the points at issue, the truthness and correctness of the very object of the case will come out before this Hon'ble Tribunal for redressal of the said grievance of the applicant in accordance with law that nature of works/functions /duties and level of responsibilities of DFCOs(T) and AFCOs (T) are same and equal and which have been repeatedly denied by the respondents.

5. That with reference to paragraph 3 of the said reply1 and paragraph 4), 5), 6), 7), 8), 9), 10), 11), 12), 13), 14) & 15 of the said reply 2, the applicant denies and disputes the correctness of the statements and/or contentions made therein save and except what are matters of records of the case. The applicant repeat and reiterate the paragraph 4 of the instant Original Application, being O.A. No.109 and all the statements as stated hereinabove.

In this context, at the outset the applicant begs to state that he has never been Communicated any memorandum of the date of 29th September, 2004, nor he has ever enclosed any memorandum dated 29th September, 2004 as Annexure-D to his Original Application, being O.A. No.109/2005.

With reference to the paragraph 3) a) of the said reply1 and

paragraph 4), 5), 6) & 7) of the said reply 2, the applicant repeat and reiterate that on the name of reply, the respondents concerned communicated the said impugned memorandum dated 27.09.2004, but it can not be said that the respondents organization disposed of the matter of the said grievance application dated 27.07.2004 convincingly in accordance with law and/or in accordance with the direction contained in the order dated 08.06.2004 passed by the Hon'ble Tribunal, Kolkata Bench in the matter of AFO(T)/O.A. No. 418/2004.

With reference to the paragraph 3) b), c) & d) of the said reply1 and paragraph 8), 9) & 10) of the said reply2, applicant repeat and reiterates that the entire records of the case including the records of the observations/reports of the Tele-Communication Cadre Review Committee and the records of the following copies/office records, if, are produced by the respondents concerned, for adjudication of the points at issue, the truthness and correctness of the very object of the case will come out that nature of works/functions/duties and level of responsibilities of DFOs (T) and AFOs (T) are same and equal and which have been repeatedly denied by the respondents.

With reference to the paragraph 3) e) & f) of the said reply1 and paragraph 11), 12) & 13) of the said reply 2, the applicant repeat and reiterate that in the similar facts and circumstances, the respondents Union of India considering the performance of similar nature of job, duties and responsibilities both by the incumbents holding the post of ATO i.e. Assistant Technical officer as well as by the Technical Officer in the respondents organization have extended same pay scale of Rs. 8,000-275-13,5000/-, although the recruitment conditions/recruitment qualifications, Recruitment Rules and rank and status are different even then the Govt. of India, more particularly the respondents U.O.I. have extended same pay scale only on consideration of the fact that both the cadres of Assistant Technical Officer and Technical Officer are discharging similar duties and responsibilities. On the mere perusal of

respondents organization being similar.

It is further submitted that the pre-revised scale of pay of the ATOs was Rs. 2,000 - 60-2,300 - 75 - 3,200 - 100 - 3,500 i.e. S-12 which has been revised by the Vth Pay Commission to Rs. 6,500 - 200 - 10,500 which is crystal clear from the CCS (Revised Pay) Rules, 1997 (herein Annexure - 'C').

It is evidently clear that only considering the very object of the case of ATOs that the performance of nature of job, duties and responsibilities both by the incumbents holding the post of ATO i.e. Assistant Technical officer as well as by the Technical Officer in the respondents organization being similar, the same scale of pay of TO of Rs. 8,000-275-13,5000/-, i.e. in the grade of S-15 as per CCS (Revised Pay) Rules, 1997 (herein Annexure 'C'), was granted to the ATOs by the respondents organization although the recruitment conditions/recruitment qualifications, Recruitment Rules and rank and status of TOs and ATOs are different.

With reference to the paragraph 3) g) of the said reply 1, it is stated that the contention of the respondents concerned that for promotion from AFO(T) to FO(T), 80% quota for 199 incumbents of AFO(T) is, if, accepted by the respondents organization, 342 posts out of total 428 posts of FO(T) will have to be reserved for promotion for 199 incumbents of AFO(T); this type of contention made by the respondents concerned has no locus standi in the facts and circumstances of the very object of the case.

With reference to the paragraph 14) & 15) of the said reply 2, the applicant repeat and reiterate that during his visit at the office of Agartala, Shri P. V. Kumar, Additional Secretary (Tele), Head of the Tele-Communication cadre of the respondents organization, has also admitted that the posts of AFO(T) have been declared abolished and all the AFOS(T) will have very soon same status and equal service benefits of the post of DFOs(T). Refer to Annexure 'D' hereof.

It is stated that from the paragraph 3)(g) of the said reply 1 also, it

evinces that presently, sanctioned strength for the post of AFOs(T) is 199 and from the Government Notification dated 25.05.01 (herein Annexure 'E'), it evinces that previously sanctioned strength of the post of AFOs(T) was 309 and further from the seniority list, made for AFOs(T) as on 22/10/2003, it is noted that after 05.06.98, recruitment to the post of AFOs (T) has been stopped and as such it is crystal clear that during this course, 109 posts of AFO(T) have been abolished and it is evident that the posts of AFO(T) have been declared abolished and same status and equal service benefits of the post of DFOs(T) should be extended to the incumbents of AFO(T).

In this context, it is further stated that the case of AFOs (T) including promotional avenues has been being neglected and deprived by the respondents organization since long. This applicant, joined as AFO (T) in the respondents organization in 1993, has been working at the same post of AFO(T) for about 13 years. There are numbers of AFOs(T) working at the same post of AFO(T) for 17/18 years. While on the subject it needs to be mentioned that the TOs, who joined in this organization in 1992/1993, are now working as DS; it implies that during the course they have been awarded two promotions.

Further it is stated that since they being Gazetted officers and as they having administrative powers, the case of ATOs(Tele) has been considered by the respondents organization but since AFOs(T) being Group-C Non-Gazetted officers and as they having no administrative powers, the case of AFOs (Tele) has not been considered by the respondents organization although Law is for all and one and for that each and every principle/rule in government service is followed and/or applied for each and every government servant irrespective post of Gazetted or Non-Gazetted.

With reference to the paragraph 3) h) of the said reply1, it is stated that the entire records of the case including the records of the observations/reports of the Tele-Communication Cadre Review

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Committee and the records of the following copies/office records, if, are produced by the respondents concerned, for adjudication of the points at issue, the truthness and correctness of the very object of the case will come out that nature of works/functions/duties and level of responsibilities of DFOs(T) and AFOs (T) are same and equal and which have been repeatedly denied by the respondents.

In this context it is reiterated that in Para 3) h) of the said reply 1, it is stated by the respondents concerned that the above-mentioned copies/records will be produced for perusal, if the Hon'ble Tribunal desires so.

6. That with reference to the paragraph 16), 17), 18), 19), 20), 21), 22), 23), 24), 25), 26), 27), 28), 29), 30), 31), 32), 33), 34), 35) & 36) of the said reply 2, the applicant denies and disputes the correctness of the statements and/or contentions made therein save and except what are matters of records of the case, applicant repeat and reiterate the paragraph 5, 6 & 7) of the instant Original Application, being O.A. No.109 and all the statements as stated hereinabove.

It is stated that applicant repeat and reiterate that from the said Recruitment Rules (Annexure R1 of the said reply 1) also it is crystal clear that when the incumbents of ATO/TO are promoted to the post of Under Secretary, at that time, the factors of qualification and experience do not need to apply and similarly when the incumbents of AFO (T)/DFO(T) are promoted to the post of FO(T) i.e. Field Officer(Tele) i.e. Group-B Non-Gazetted post, at that time also, the factors of qualification and experience do not need to apply. Further the applicant repeat and reiterate that it is crystal clear that the service status and benefits including pay scale, promotion, ACP, etc. at par with TO i.e. Group - A Gazetted post, i.e. the topmost grade of the Central Government Service, was approved for the ATOs-(Group -B Gazetted) by the respondents Union Of India, without applying any question about the factors of

qualification and experience of the ATOs, and the case of ATOs was approved only on application of consideration into the very object of the case of ATOs that the performance of nature of job, duties and responsibilities both by the incumbents holding the post of ATO i.e. Assistant Technical officer as well as by the Technical Officer in the respondents organization being similar.

In this connection the applicant repeat and reiterate that the pre-revised scale of pay of the ATOs was Rs. 2,000 - 60-2,300 - 75 - 3,200 - 100 - 3,500 i.e. S-12 which has been revised by the Vth Pay Commission to the pay scale Rs. 6,500 - 200 -10,500 which is crystal clear from the CCS (Revised Pay) Rules, 1997 (herein Annexure -'C').

It is evidently clear that only considering the very object of the case of ATOs that the performance of nature of job, duties and responsibilities both by the incumbents holding the post of ATO i.e. Assistant Technical officer as well as by the Technical Officer in the respondents organization being similar, the same scale of pay of TO of Rs. 8,000-275-13,500/-, i.e. in the grade of S-15 as per CCS (Revised Pay) Rules, 1997 (herein Annexure 'C'), was granted to the ATOs by the respondents organization although the recruitment conditions/recruitment qualifications, Recruitment Rules and rank and status of TOs and ATOs are different.

It is evidently true and crystal clear that the performance of nature of job, duties and responsibilities both by the incumbents holding the post of AFO (T) i.e. Assistant Field officer (Tele) as well as by the DFO (T) i.e. Deputy Field Officer (Tele) being similar the applicant is also similarly circumstanced entitled to similar service status/benefits including pay scale which is allotted to the post of DFO (T) by the respondents Union of India.

Further, the applicant repeat and reiterate that the entire records of the case including the records of the observations/reports of the Tele-Communication Cadre Review Committee and the records of the aforesaid copies/office records, if, are produced by the respondents

concerned, for adjudication of the points at issue, the truthness and correctness of the very object of the case will come out before this Hon'ble Tribunal for redressal of the said grievance of the applicant in accordance with law that nature of works/functions/duties and level of responsibilities of DFOs(T) and AFOs (T) are same and equal and which have been repeatedly denied by the respondents.

In this context it is reiterated that in Para 24) of the said reply 2 also, it is stated by the respondents concerned that the above-mentioned copies/records will be produced for perusal, if the Hon'ble Tribunal desires so.

Further, the applicant repeat and reiterate that the grounds set out in paragraph 5 of the instant Original Application being O.A. No.109 are very much appropriate in the point of facts and circumstances as well as so much tenable in the eye of Law and in fact.

7. That with reference to paragraph 4 of the said reply1 and paragraph 37), 38), 39), 40) & 41) of the said reply2, the applicant denies and disputes the correctness of the statements and/or contentions as made therein save and except what are matters of records of the case. In this connection applicant repeat and reiterate the paragraph 8, 9, 10, 11 & 12 of the instant Original Application, being O.A. No.109 and the statements as stated herein above.

It is stated that from the paragraph 3)(g) of the said reply 1 also, it evinces that presently, sanctioned strength for the post of AFOs(T) is 199 and from the Government Notification dated 25.05.01 (herein Annexure 'E'), it evinces that previously sanctioned strength of the post of AFOs(T) was 309 and further from the seniority list, made for AFOs(T) as on 22/10/2003, it is noted that after 05.06.98, recruitment to the post of AFOs(T) has been stopped and as such it is crystal clear that during this course, 109 posts of AFO(T) have been abolished and it is evidently clear that the posts of AFO(T) have been declared abolished and it is

evident that all the AFOS(T) should have same status and equal service benefits of the post of DFOs(T).

The applicant repeat and reiterate that on the name of reply, the respondents concerned communicated the said impugned memorandum dated 27.09.2004, but it can not be said that the respondents organization disposed of the matter of the said grievance application dated 27.07.2004 convincingly in accordance with law and/or in accordance with the direction contained in the order dated 08.06.2004 passed by the Hon'ble Tribunal, Kolkata Bench in the matter of AFO (T)/O.A. No. 418/2004.

Further, the applicant repeat and reiterate that the grounds set out in paragraph 5 of the instant Original Application being O.A. No.109 are very much appropriate in the point of facts and circumstances as well as so much tenable in the eye of Law and in fact.

Further the applicant repeat and reiterate that the Original Application, being O.A. No.109, is sufficiently bonafide for ends of Justice and sufficiently maintainable in Law or in fact and as such the memorandum dated 27.09.2004 against which filed this application is liable to be set aside.

8. That it is evident that without applying any question about the factors of qualification and experience of the ATOs, and the case of ATOs was approved only on application of consideration into the very object of the case of ATOs that the performance of nature of job, duties and responsibilities both by the incumbents holding the post of ATO i.e. Assistant Technical officer, Group- B Gazetted as well as by the Technical Officer, Group-A Gazetted in the respondents organization being similar. And the pre-revised scale of pay of the ATOs was Rs. 2,000 - 60-2,300 - 75 -3,200-100- 3,500 i.e. S-12 has been revised by the Vth Pay Commission to the pay scale Rs. 6,500-200-10,500 (refer to herein Annexure -'C') but only considering the said very object of the case of ATOs, the same scale of pay of TO of Rs. 8,000-275-13,500/- was granted to the ATOs by the

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respondents organization although the recruitment conditions/ recruitment qualifications, Recruitment Rules and rank and status of TOs and ATOs are different .

It is evidently true and crystal clear that the performance of nature of job, duties and responsibilities both by the incumbents holding the post of AFO(T) i.e. Assistant Field officer(Tele) as well as by the DFO(T) i.e. Deputy Field Officer(Tele) being similar, the applicant is also similarly circumstanced entitled to similar service status/benefits including pay scale which is allotted to the post of DFO(T) by the respondents Union of India .

It is evident from the impugned memorandum dated 27.09.2004, against which filed this instant application being O.A. NO. 109 that the respondents organization as own on this or that pretext, rejected the grievance of the applicant and repeatedly denied the records of the following copies which substantiate the truthness and correctness of the very object of the grievance of the applicant that nature of works/functions/duties and level of responsibilities of DFOs (T) and AFOs (T) are same and equal.

It is also ex-facie clear that on the name of reply, the respondents concerned communicated the said impugned memorandum dated 27.09.2004, but it can not be said that the respondents organization disposed of the matter of the said grievance application dated 27.07.2004 convincingly in accordance with law and/or in accordance with the direction contained in the order dated 08.06.2004 passed by the Hon'ble Tribunal, Kolkata Bench in the matter of AFO(T)/O.A. No. 418/2004.

This applicant, therefore, keenly prays before this Hon'ble Tribunal to interfere into the matter and pass appropriate order for ends of Justice, considering the gravity and density of the entire records of the case including the records of the observations/reports of the Tele-Communication Cadre Review Committee and the records of the

following copies/office records so that the truthness and correctness of the very object of the case can come out for redressal of the said grievance of the applicant in accordance with law :-

- a) Copies of the Daily Station Diary wherein duties/works responsibilities as performed by AFOs (T)/DFOs (T) are made entry for office-records.
- b) Copies of the DTRs which also evince that nature of works/functions/duties and level of responsibilities for DFOs (T) and AFOs(T) are same and equal.
- c) Copies of the Duty Roster wherein Morning or Afternoon or Night or General-Shift duties as assigned for AFOs(T)/DFOs(T) are mentioned.
- d) Copies of the Monthly Merit list wherein records of Month wise output of the Duties/Responsibilities as done by AFOs(T) & DFOs(T) are mentioned.
- e) Copies of the latest Seniority List of AFOs(T) which indicates numbers of AFOs(T) working in this Organisation is about 250 and further from the seniority list , made for AFOs(T) as on 22/10/2003 , it is noted that after 05.06.98, recruitment to the post of AFOs(T) has been stopped .
- f) Copies of the latest Seniority List of DFOs(T) which indicates numbers of DFOs(T) working in this Organisation is about 800.
- g) Book of R& AW (Recruitment, Cadre and Service) Rules.
- h) Book of respondent Departmental standing Orders.

In the facts and circumstances stated above the Original Application deserves to be allowed with cost.

VERIFICATION

I, K. C. Swain, son of Shri Syama Sundar Swain, aged 39 years, working as Assistant Field Officer (Telecommunication Cadre), presently in the office of Deputy Commissioner, Special Bureau, Gangtok, Sikkim, resident of Mahua Palli, P.O. Arakhapur via Ballipadar, Distt.- Ganjam, Orissa, Pin - 761117, hereby verify that the contents of Paragraphs 1 to 2 are true to my personal knowledge and those made in Paragraphs 3 to 5 and 7 are true to my information derived from the matters of the records of the case and rest paragraphs are my respectful submissions before this Hon'ble Tribunal.

And I sign this verification on the 3rd day of March 2006.

Kailash chandra Swain

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Annexure- A

(Typed true copy)

To,

The Secretary (R&AW)
Cabinet Secretariat
Government of India
Room No. 7, Bikaner House (Annexe)
Shahjahan Road, New Delhi- 110011.

(Through proper channel)

Ref : Memorandum dated 29.09.2004

Sub : In the matter of benefits in service (i.e. Scale of pay/Promotion/ACP and others) to be extended to AFO (T) on at par with DFO (T) from the joining day in service.

Sir,

I am extremely shocked and surprised on receipt of the memorandum under-reference wherein my representation dated 28.07.2004 has been rejected flatly denying the fact that nature of works/functions/duties and level of responsibilities of DFOs (T) and AFOs (T) are same and equal.

2. The following copies/records substantiate the fact that nature of works/functions/duties and level of responsibilities of DFOs (T) and AFO (T) are same/equal.

- a) Copies of the Daily Station Diary wherein duties/works/responsibilities as performed by AFOs (T)/DFOs (T) are made entry for office-records.
- b) Copies of the DTRs which also evince that nature of works/functions/duties and level of responsibilities of DFOs (T) and AFOs (T) are same and equal.
- c) Copies of the Duty Roster wherein Morning or Afternoon or Night or General-shift duties as assigned for AFOs (T)/DFOs (T) are mentioned.
- d) Copies of the Monthly Merit list wherein records of Month wise output of the Duties/Responsibilities as done by AFOs (T) & DFOs (T) are mentioned.
- e) Copies of the latest Seniority List of AFOs (T) which indicates numbers of AFOs (T) working in this Organisation is about 250.

Attested
Sd/-
Advocate

- f) Copies of the latest seniority List of DFOs (T) which indicates numbers of DFOs (T) working in this Organisation is about 800.
- g) Book of R&AW (Recruitment, Cadre and Service) Rules.
- h) Book of our departmental standing Orders.

3. I, therefore, beseech upon Your Honour that I may kindly be supplied the above-mentioned copies (as mentioned in Para 2, of this representation) which are required to approach the appropriate forum for redressal of my grievance (in the above mentioned matter) in accordance with Law, as direction given in the order dated 08.06.2004 passed by the Hon'ble Tribunal, Kolkata in the matter of O.A. No. 418/2004.

Date: 28/02/2005
Place: SB, Agartala.

Yours faithfully
Sd/- Illegible
(K.C. SWAIN)
AFO (T)/ID No.

Special Bureau, GTK

No. 1652

Date 12-5-05

SECRET

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109

No. 1/5/2005-Pers.3 - S 101

Government of India

Cabinet Secretariat

New Delhi, the

02 MAY 2005

MEMORANDUM

/Shri K.C. Swain, AFO(T) may refer to his representation dated 28.2.2005 addressed to Secretary in reference to Hqrs. memo No. 1/5/04 dated 27.09.04.

2. He is informed that the matter is under consideration with Hqrs and further communication would follow in due course.

(A.K. SOOD)

Under Secretary (Pers.I)

✓ Shri K.C. Swain, AFO(T)

Through DC, SB, Gangtok

Shri K.C. Swain, AFO(T)

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Attended
Suk
Advocate

SWAMY'S - CCS (REVISED PAY) RULES, 1997

	EXISTING SCALES OF PAY	GRADES	REVISED SCALES OF PAY
1.	750-12-870-14-940	S-1	2,440-40-3,200 *
2.	775-12-871-14-1,025	S-2	2,550-45-3,540 *
3.	800-15-1,010-20-1,150	S-3	2,650-50-4,000 *
4.	825-15-900-20-1,200	S-4	2,750-55- 4,400 *
5.	950-20-1,150-25-1,400 950-20-1,150-25-1,500 1,150-25-1,500	S-5	3,050-70- 4,590 *
6.	975-25-1,150-30-1,540 975-25-1,150-30-1,660	S-6	3,200-85- 4,900
7.	1,200-30-1,440-30-1,800 1,200-30-1,560-40-2,040 1,320-30-1,560-40-2,040	S-7	4,000-100- 6,000
8.	1,350-30-1,440-40- 1,800-50-2,200 1,400-40-1,800-50-2,300	S-8	4,500-125- 7,000
9.	1,400-40-1,600-50- 2,300-60-2,600 1,600-50-2,300-60-2,660	S-9	5,000-150- 8,000
10.	1,640-60-2,600-75-2,900	S-10	5,500-175- 9,000
11.	2,000-60-2,120	S-11	6,500-200- 6,900
12.	2,000-60-2,300-75-3,200 2,000-60-2,300-75- 3,200-100-3,500 ATO	S-12	6,500-200- 10,500
13.	2,375-75-3,200-100- 3,500 2,375-75-3,200-100- 3,500-125-3,750	S-13	7,000-225- 11,500 *
14.	2,500-4,000 (proposed new pre-revised scale)	S-14	7,500-250- 12,000
15.	2,200-75-2,800-100-4,000 2,300-100-2,800	S-15	8,000-275-13,500 ATO (R)
16.	2,630 - FIXED	S-16	9,000 - FIXED
17.	2,630-75-2,780	S-17	9,000-275-9,550
18.	3,150-100-3,350	S-18	10,325-325-10,975

Accepted subject to following modifications:

* (i) Scales at S-1 to S-5, S-13 shall be modified as under:

- S-1 2,550-55-2,660-60-3,200
- S-2 2,610-60-3,150-65-3,540
- S-3 2,650-65-3,300-70-4,000
- S-4 2,750-70-3,800-75-4,400
- S-5 3,050-75-3,950-80-4,590
- S-13 7,450-225-11,500

Attested
Sd/-
Admnstr

To
The Deputy Commissioner (Tele),
MS, Agartala.

Sir, It is glad to learn as verbally intimated to me on 17.12.2003 (A/N) by Shri Sanchayan Mukhopadhyay AFO(T), ID NO. 03674-H that during the visit of 'Shri P.V. Kumar, Additional Secretary (Tele) and Shri Mannan, Director' - Sirs at MS, Agartala, Shri Sanchayan Mukhopadhyay met them with his grievance about the promotion-status of AFOs(T); in reply Shri P.V. Kumar - Sir told him that the rank of AFOs(T) could be abolished and all AFOs(T) would be made DFOs(T).

2. That ^{on the other day} ~~that~~ during the visit of afore-said ~~of~~ officers at MS, Agartala, in the month of November/December 2003, I was on leave at my Home Town, Kolkata.

3. But till the date nothing has been made, as conveyed by Shri P.V. Kumar - Sir, to Shri Sanchayan Mukhopadhyay, in respect of the redress of grievance in the matter that from ~~since~~ ^{the} joining day ~~in service~~ in this organisation AFOs(T) perform the duties and functions as were being performed by DFOs(T).

4. In view of the above, I hereby beseech upon you that the matter may kindly be expedited, please.

Date: - 17.03.2004

Place: - MS, Agartala.

Yours faithfully,

(Signature) 17.03.2004

(SIMUL DATTA)

AFO(T)

ID NO 03349-V

Copy to - 1) Shri P.V. Kumar - Sir,
Additional Secretary (Tele)
HQs, New Delhi
2) Shri Mannan - Sir,
Director (TM)
HQs, New Delhi

Attestd
Sd/-
Advocate

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**CADRE STRENGTH OF THE TELECOMMUNICATION CADRE
OF THE RESEARCH AND ANALYSIS WING AS AMENDED VIDE
NOTIFICATION DATED 25.5.2001**

ANNEXURE D

S.NO.	Designation	Scale of Pay	Permanent	Temporary	Total	Remarks
1.	Joint Secretary (Telecommunication)	Rs. 18400-500-22400	9	1	10	
2.	Director (Telecommunication)	Rs. 16400-450-20000	1	4	5	
3.	Deputy Secretary (Telecommunication)	Rs. 12000-375-16300	5	3	8	
4.	Under Secretary (Telecommunication)	Rs. 10000-325-15200	16	14	30	
5.	Technical officer (Telecommunication)	Rs. 8000-275-13500	21		21	
6.	Asst. Technical officer (Telecommunication)	Rs. 8000-275-13500	75	36	111	
7.	Field officer (Telecommunication)	Rs. 6500-200-10500	267	54	321	
8.	Dy. Field officer (Telecommunication)	Rs. 5500-175-9000	769	7	776	
9.	Asst. Field officer (Telecommunication)	Rs. 4000-100-6000	305	17	322	

Note: Annexure D' above as amended vide Cabinet Sectt. Notification No. A-12018/42/87-DOI dt. 27.3.89 (F.No. 1/5/87-Pers.5)

(2) Sanctioned strength of posts of Director (Tele), Field Officer (Tele), Deputy Field Officer (Tele) and Assistant Field Officer (Tele) as amended vide Cab. Sectt. Corrigendum No. A-12018/42/87-DOI dt. 2.3.90 (F.No. 1/5/89-Pers.5)

(3) Deputy Secretary (Tele) as inserted vide Cab. Sectt. Notification No. A-12018/42/89-DOI dt. 21.3.90 (F.No. 1/5/89-Pers.5)

(4) Annexure D' above as amended vide No. A-12018/17/92-DOI dt. 25.5.2001 (F.No. 1/5/2000-Pers.5)

Attested
Law
Advocate