

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.438 of 1999

Jabalpur, this the 24th day of February, 2003.

Hon'ble Mr. R.K. Upadhyaya-Member (Administrative)
Hon'ble Mrs. Meera Chhibber-Member (Judicial)

1. Hemraj Gurjar, son of late T.R. Gurjar,
Age: About 37 years, Hanuman Colony,
Front side of Shiv Mandir, Guna (M.P.).
2. Rajendra Kumar Gupta, son late D.R. Gupta,
Age: About 44 years, Sr NIG-781, Housing Board
Colony, Morena (MP).
3. Sanad Kumar Shrimali, Son of Sri Ramlal Shrimali,
Age About 42 years, Mali Kuwa, Khandwa (MP).
4. Laxman Lalwani, Son of Late Bhoja Mal Lalwani,
Age: About 37 years, 51, Shivaji Ward, Gandhi
Nagar, Bhopal (M.P.).

-APPLICANTS

(By Advocate-Shri S.K. Nagpal)

VERSUS

1. Union of India, Through: The Secretary,
Department of Posts, Min of Communications,
Dak Bhawan, New Delhi-110001.
2. The Director General, Department of Posts,
Dak Bhawan, New Delhi-110001.
3. The Post Master General, MP Circle,
Bhopal-462012 (MP).
4. The Post Master (HSG-I), Khandwa-450001 (MP)-RESPONDENTS

(By Advocate-Shri B.da. Silva through Shri S.A. Dharmadhikari)

ORDER (Oral)

By R.K. Upadhyaya, Member (Adminv.)-

The applicants have claimed the following reliefs-

- "(a) that the impugned orders at Annexure A/1 and A/2 be quashed;
- (b) respondents be directed to place the applicants in the scale of Rs. 4000-6000 w.e.f. 1.1.96 as recommended by the 5th Pay Commission and implemented by the Respondents in similar cases and initially to the applicants also with all other consequential benefits.
- (c) respondents be further directed to designate the applicants as Postal Assistants from Jun 93 and the time bound/BCR promotion scheme introduced in the Department be made applicable to applicant also to create promotional avenue.
....."

By the order dated 5.1.1999 (Annexure-A-1) it has been intimated by the Ministry of Communication, Department of Posts.

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New Delhi, that the scale of pay of Hindi Typist in the Department of Posts may be placed in the replacement scale of Rs.3200-4900 only. By Annexure-A-2 dated 20.7.1999 the representation of the applicant no.2 claiming higher pay scale of Rs.4000-6000 has been rejected.

2. It is stated by the applicants that they were appointed as Hindi Typists in the scale of Rs.260-480 which was subsequently revised to Rs.975-1660 with effect from 1.1.1986. The Hindi Typists employed in Circle/Regional Offices were having a lower pay scale of Rs.260-400 which was revised to Rs.950-1500 on the recommendations of the Fourth Pay Commission. It is further stated that the clerical cadre under the respondents was of Lower Division Clerks (for short 'LDCs') and Upper Division Clerks (for short 'UDCs'). The LDCs were in the scale of Rs.260-400 which was revised to Rs.950-1500, and UDCs were in the pay scale of Rs.330-560 which was revised to Rs.1200-2040. In view of the fact that there was not much promotional avenues to Hindi Typists in the Circle/Regional Offices, the cadre of Hindi Typists was merged with LDCs in the pay scale of Rs.950-1500, vide order dated 26.10.1987 (Annexure-A-3). It is claimed that the Hindi Typists employed in the Divisional Offices like the applicants were remained to be Hindi Typists.

2.1 It is claimed that in the year 1993 the posts of LDCs/UDCs in the Circle/Regional office were abolished and equal number of Postal Assistants were created. Thus, the employees in the clerical cadre including those Hindi Typists who were merged with the LDCs have become entitled to get first promotion after 16 years in the grade and second promotion after 26 years of service.

2.2 The claim of the applicants is that some of their colleagues who joined as Hindi Typists in lower pay scale of Rs.260-400 have also got the benefit of this promotion. Consequent to the implementation of the Fifth Pay Commissions,

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report Postal Assistants were given pay scale of Rs.4000-6000 with effect from 1.1.1996. However, by the impugned order dated 5.1.1999 (Annexure-A-1) the applicants have been placed in the replacement scale of Rs.3200-4900. Therefore, the applicants feeling aggrieved made representations which were rejected. Therefore, this application has been filed.

2.3 It is claimed by the learned counsel of the applicants that the impugned order dated 5.1.1999 (Annexure-A-1) has been subject matter of scrutiny by different Benches of this Tribunal. He invited attention to the order dated 21.8.2000 passed in OAs 20 to 22 of 1999 (Guru Prasad Dahiya Vs. Union of India & ors) by the Jodhpur Bench of this Tribunal, where the same impugned order dated 5.1.1999 was challenged. After examining the facts of the case, the Jodhpur Bench passed the following order-

"The applications are allowed. The impugned order dated 05.1.1999 at Annexure A/1 is quashed and set aside. The applicants would continue to draw their pay in the scale of Rs.4000-6000 and if any recovery has been made in pursuance of order dated 05.1.1999 (Annexure A/1), the same shall be refunded to the applicants with interest @ 12 per cent per annum compounding annually.."

It is further informed by the learned counsel of the applicant that the department had challenged the order of the Tribunal before the Hon'ble High Court of Rajasthan at Jodhpur in C.W.P.No.4830/2000 which was dismissed vide order dated 4.1.2000. The learned counsel further informed that the orders of the Tribunal and High Court in those cases have been implemented by the department.

2.4 The learned counsel of the applicants also invited attention to order dated 5.12.2001 passed by Chandigarh Bench of this Tribunal in the case of Ashok Verma & others Vs. Union of India & others, O.A.No.11/HP/2000 (copy placed on record) in which also the same impugned order dated 5.1.1999 was challenged and the Tribunal directed the respondents to release the scale of Rs.4000-6000 to the applicants in that case with effect from 1.1.1996. He has also drawn attention

Ashok Verma

to the order dated 7.11.2000 passed in O.A.275/1999,

Bimla Rani Juneja Vs. Union of India & others by Jaipur Bench of the Tribunal wherein also the same view has been taken .

3. On behalf of the respondents, reliance was placed on the written reply filed by the respondents. The learned counsel of respondents, however, stated that he has no information whether the judgment of the Hon'ble High Court of Rajasthan referred to above, has been challenged before the Apex Court or not.
4. We have heard the learned counsel of both the parties and have perused the material available on record carefully.
5. In view of the decisions of several Benches of this Tribunal and also of the order of the Hon'ble High Court of Rajasthan, referred to earlier, this O.A. is allowed. The applicants are entitled to the same scale of pay of Rs.4000-6000 as was given to other Hindi Typists who were merged with the cadre of LDCs and subsequently were eligible for other benefits. In view of the fact that the impugned order dated 5.1.1999 (Annexure-A-1) had already been quashed, the applicants will be eligible for higher pay scale of Rs.4000-6000 as claimed by them with effect from 1.1.1996. Any alleged over payment pursuant to the decision of the department to place the applicants in the scale of Rs.3200-4900 is directed not to be recovered. The applicants will be eligible for the arrears which may become due to them being placed in the scale of Rs.4000-6000 with effect from 1.1.1996, which should be paid to them within a period of three months from the date of receipt of a copy of this order, along with interest @ 6 (six) per cent per annum. The applicants will also be eligible for being considered for further promotion at par with other ^{Hindi Typists} ~~LDCs~~ who have been merged with the cadre of LDCs and subsequently

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