

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 606 of 1998

Jabalpur, this the 10<sup>th</sup> day of October, 2003

Hon'ble Shri Anand Kumar Bhatt, Administrative Member  
Hon'ble Shri G. Shanthappa, Judicial Member

1. Badri Prasad Kori,  
S/o Shri Kishanlal Kori,  
aged 40 years, resident of  
2544, Pishnariki Madhiya,  
Kori Mohalla, P.O. Garha,  
Jabalpur.
2. Ram Prasad Pasi, S/o Shri  
Ramraj Pasi, aged 40 years,  
1600, Gupteshwar, Hirdaya  
Nagar, Jabalpur.
3. Dinesh Kumar Hemraj, S/o  
Shri S.C. Hemraj, aged 42  
years, resident of 1764, Hemkutti,  
Near Gupteshwar Temple,  
Shakti Nagar Chowk, Gupteshwar,  
Jabalpur.
4. Raghunath Prasad Patel,  
S/o Shri Pyarelal Patel,  
aged 44 years, resident of Type  
I/7, P & T Colony, Krishi Upaj  
Mandi, Damoh Road, Jabalpur.
5. Durga Prasad Yadav, S/o  
Shri Ambika Prasad Yadav, aged  
40 years, resident of House No.  
2740/1, Indira Nagar, Gupteshwar,  
Jabalpur.

... Applicants

(By Advocate - Shri S. Paul.)

V e r s u s

1. Union of India, through  
the Secretary, Ministry of  
Communications, Department of  
Telecom, New Delhi-110001.
2. Chief Engineer (C.E),  
Department of Telecom, Ground  
Floor, Administrative Office,  
Juhu, Santacruz, West Mumbai-  
400054.
3. Superintending Engineer (S.E)  
Telecom Electrical Circle,  
B-83 Kasturba Nagar,  
Bhopal (M.P.).
4. Executive Engineer (Electrical)  
Telecom Electrical Department,  
Jabalpur Hospital, Wright Town,  
Jabalpur.

... Respondents

(By Advocate - Shri S.C. Sharma)

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O R D E R

By Anand Kumar Bhatt, Administrative Member:

The relief sought by the applicants, in this OA, is as follows:

- "(b) Direct the respondents to treat the applicants as Wireman with effect from 7-5-97 and give them arrears of pay as Wireman from that date and seniority and other consequential benefits be also be granted; in alternatively
- (c) Direct the respondents to conduct a Trade Test and consider the cases of the applicants for the post of Wireman forthwith;
- (d) Direct the respondents to pay the difference of wages of the applicants from the date they are performing the duties of Wireman though termed as Assistant Wireman."

2. Facts of the case, in brief, are that the applicants were appointed as Assistant Wireman in Telecom Department (Electrical), and they were paid the pay scale of Assistant wireman as fixed by the IVth Central Pay Commission and later by Vth Central Pay Commission. As per the applicants, for the purposes of regulating the service conditions, Respondent No.1 has adopted the rules and the provisions of the CPWD Manual. In the Civil wing of the Telecom Department which performs the civil constructions, wiring and all ancillary and main work of civil nature. The CPWD abolished the post of Assistant Wireman and merged <sup>the</sup> <sub>^</sub> with the post of Wireman vide Circular dated 7.5.1997. The pay scale of Wireman in the

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IVth Pay Commission was Rs.950-1500 whereas that of Assistant Wireman was Rs.800-1150. Accordingly, the applicants are also entitled to get the pay scale of Wireman w.e.f. 7.5.1997. The Controlling Officer of the applicants, i.e., Respondent No.4 had recommended to Respondent No.3 that a Trade Test be conducted for promotion of the maintainance staff in M.P.Area as has been done by SE(E), Telecom Electrical Circle, Mumbai. However, no action was taken on this recommendation. For all practical purposes, there is no difference in the work performing by the applicants and Wireman, and therefore, denying the applicants the status and pay scale of the post of Wireman is arbitrary and unjust.

3. In the oral submissions, Shri S.Paul, learned counsel for applicants, reiterated the pleas and stated that the claim was denied as (Respondents) <sup>Annexure RJ/4 dated 30.11.88</sup> they insisted that there was no post of Wireman in the Unit. He has stated that the statement of the respondents is not correct and in <sup>Annexure RJ/4 dated 30.11.88</sup> attached to the rejoinder, he has given a list of Wireman in the Telecom Department. He has stated that as Assistant Wireman and Wireman do the same kind of work therefore they should not be any distinction between the two cadres and scales. In support, he has cited the following citations:

- a) 1998 (4) SCC 291 (Selvaraj v. Lt. Governor of Port Blair) Island & others,
- b) 2003(1) STJ(SC) 240, State of Haryana & Anr. v. Haryana Civil Secretariate personal Staff Association.

4. In the reply filed on 30.3.2000, the respondents have stated that in Telecom Department, there is no post of Wireman ~~nowise~~ hence there is no question of merging the post of Wireman and Assistant Wireman. They have further stated that the Rules of CPWD cannot be made applicable to Telecom Department, and question of equity of posts in different department does not arise. They have also stated that the pay scale of Assistant Wireman has already been revised vide order dated 15.9.1998 to Rs.800-1150 and under the in-situ promotion Scheme, they would be given higher pay scale of Rs.950-1500/-.

5. However, in the additional reply submitted by the respondents on 5.8.2003, the respondents have replied to the queries made by the Tribunal on 2.7.2003 as to how the benefit of upgradation/merger was offered in other units like Telecom Training Centre, etc., they have admitted that the Department vide order dated 22.4.2002 have taken a policy decision to merge the posts of Assistant Wireman with that of Wireman. It is also stated that the applicants shall be designated as Wireman and will also be receiving higher pay scale of Rs.3050-4590.

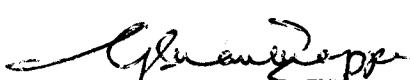
6. Shri Paul, learned counsel for applicants has stated that this is <sup>a</sup> new fact which has been

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brought to notice by the respondents. However, although as per the submission of the respondents, the said order for merging the post of Assistant Wireman with Wireman was issued by the Telecom Department on 22.4.2002, this has not been implemented as yet for the applicants.

7. We feel that, ends of justice would be met, if the respondents are directed to implement the said policy decision of the Department in a given time frame. Accordingly, it is ordered that the respondents shall implement the said order of the Department within a period of three months from the date of receipt of a copy of this order. As far as the relief regarding treating the applicants as Wireman w.e.f. 7.5.1997 with all consequential benefits, no direction is being given at present. Applicants, if so advised, shall make a representation before the respondents in this regard and if such representation is given by the applicants, the same will be decided by the respondents within six months from the date of receipt of such representation from the applicants.

8. OA stands disposed of accordingly. No costs.

  
(G. SHANTHAPPA)

Judicial Member

  
(ANAND KUMAR BHATT)  
ADMINISTRATIVE MEMBER

/rao/