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OA 128/2005

25.01.2007

Present : Mr. C.B. Sharma, counsel for applicant.  
Mr. S.S. Hassan, counsel for respondents.

This case has been listed before the Deputy Registrar due to non-availability of Division Bench. Be listed before the Hon'ble Bench on 29.01.2007.

*[Signature]*  
DEPUTY REGISTRAR

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OA 128/2005

29.01.2007

Mr. C.B. Sharma, counsel for applicant.  
Ms. Dilshad Khan, proxy counsel for  
Mr. S.S. Hasan, counsel for respondents.

This case has been listed before the Deputy Registrar due to non-availability of Division Bench. Be listed before the Hon'ble Division Bench on 22.03.2007.

*[Signature]*  
(GURMIT SINGH)  
DEPUTY REGISTRAR

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22-3-07

Mr. C. B. Sharma Counsel for applicant  
Mrs S. S. Hassan Counsel for respondents

Heard. The OA has been disposed of by a separate order

*[Signature]*  
(J.B. Shukla)  
Administrative Member

*[Signature]*  
(Kuldip Singh)  
Vice Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

Jaipur, this the 22<sup>nd</sup> day of March, 2007

ORIGINAL APPLICATION No. 128/2005

CORAM:

HON'BLE MR. KULDIP SINGH, VICE CHAIRMAN  
HON'BLE MR. J.P.SHUKLA, MEMBER (ADMV)

Khem Chand Saini  
s/o Shri Mohan Lal Saini,  
aged about 48 years,  
r/o Naya Bebdi Walon Ka Kua,  
Manna Ka Road, Alwar  
and presently working as Wireman (Electrical)  
O/o Senior Superintendent of Post Offices,  
Alwar Postal Division,  
Alwar

.. Applicant


(By Advocate: Shri C.B.Sharma)

Versus

1. Union of India through  
its Secretary to the Government of India,  
Department of Posts,  
Ministry of Communications,  
Dak Bhawan,  
New Delhi.
2. Chief Post Master General,  
Rajasthan Circle,  
Jaipur.
3. Superintendent of Post Offices,  
Alwar Postal Division,  
Alwar.

.. Respondents

(By Advocate: Shri S.S.Hasan)



**ORDER (ORAL)**

The applicant has filed this OA assailing inaction on the part of the respondents for not extending the benefit of pay and allowances as granted to his colleagues.

2. Facts as alleged by the applicant, in brief, are that the applicant was appointed to the post of Wireman vide memo dated 26<sup>th</sup> May, 1980 in the pay scale of Rs. 210-270 as per Annexure-A/1. It is further alleged that the candidates who were appointed in the year 1980 to the post of Wireman were also allowed the pay scale of Rs. 210-270 instead of Rs. 260-350 and the same was revised on the recommendations of the 4<sup>th</sup> Pay Commission to Rs. 825-1200 instead of Rs. 950-1500. In Kota and Sawaimadhapur Postal Divisions some candidates were allowed appointment in the scale of Rs. 260-350. Since the respondents made an attempt to reduce the pay scale of Wireman of Kota and Sawaimadhapur Postal Division, so they approached this Hon'ble Tribunal. The Tribunal allowed the OAs as per Annexure-A/2 and A/3. Similarly, the applicant should have been appointed in the pay scale of Rs. 260-350 in the year 1980 itself. It is also stated that respondent No.2 had issued directions for recruitment of Wireman cadre to recruiting units showing qualifications, pay scale and other conditions vide

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letter dated 27<sup>th</sup> March, 1979 in which pay scale to the cadre of Wireman has been shown as Rs. 110-155 prior to 3<sup>rd</sup> Pay Commission Report and after 3<sup>rd</sup> Pay Commission corresponding pay scale of Rs. 260-350 instead of Rs. 210-270 meant for Assistant Wireman. The respondent department had appointed Wireman in Kota and Sawaimadhapur Postal Divisions in the scale of Rs. 260-350 whereas in other divisions in the scale of Rs. 210-270 and thereafter the respondents made an attempt to reduce the pay scale of Wireman of Kota and Sawaimadhapur, but the controversy was resolved when the affected persons approached the Tribunal and directions were given by Annexure-A/2 and A/3. Since the applicant was also appointed in the pay scale of Rs. 210-270 instead of Rs. 260-350 but the matter remained under litigation before the Tribunal as per Annexure-A/4. It is further stated that similarly situated employees working on the post of Wiremen also approached this Tribunal at Jaipur as well as Jodhpur Benches and their applications were allowed upholding the pay scale of Rs. 260-350. Some of the judgments are placed at Annexure-A/5, A/6, A/7 and A/8 allowing the Workman the pay scale of Rs. 260-350.

The respondents challenged the order passed by the Hon'ble Bench at Jodhpur before the Hon'ble High Court, Jodhpur, but the decision of the Tribunal was upheld and the Hon'ble High Court, Jodhpur also allowed the arrears from the date of their initial



appointment. The respondents further approached the Hon'ble Supreme Court and the Hon'ble Supreme Court also upheld the decision of the Tribunal restricting the arrears for a period of 3 years by modifying the order of the Hon'ble High Court, Jodhpur as per Annexure-A/10 and A/11. One Writ Petition was also filed before the Jaipur Bench of the Hon'ble High Court and the Jaipur Bench also dismissed the Writ Petition of the department vide Annexure-A/12. It is submitted that since the applicant is similarly situated, he is also entitled to the pay scale of Rs. 260-350 w.e.f. 26<sup>th</sup> May, 1980, the pay scale of Rs. 950-1500 w.e.f. 1.1.1986 and further corresponding scale w.e.f. 1.1.1996 with all consequential benefits.

3. The respondents have contested the OA. In their reply, they have submitted that since the applicant have agreed to the pay scale of the post as Rs. 210-270 and joined the post w.e.f. 26<sup>th</sup> May, 1980, he was well aware of the pay scale attached to the post, so he cannot claim higher pay scale of Rs. 260-350 as given to his counterparts while referring various judgments of Hon'ble Central Administrative Tribunal and Hon'ble High Court. It is also submitted that now it is too late for the applicant to challenge the same. The respondents have also referred to the judgment of the Ahmedabad Bench of this Tribunal

wherein the request of the applicant for the pay scale of Rs. 950-1500 was turned down.

4. We have heard the learned counsel for the parties and gone through the record.

5. As regards the facts are concerned, the same are admitted and in this case the employees who were similarly situated in the Rajasthan Circle throughout have been granted the pay scale of Rs. 260-350 and then Rs. 950-1500. The judgment Annexure-A/3 and A/5 would show that the applicants in those cases were also appointed to the post of Workman and matter of their pay scale had gone up to the highest level from various judgments of Jodhpur and Jaipur Benches of the Tribunal and the Hon'ble High Court at Jaipur and Jodhpur have decided in favour of the applicants, we are of the considered opinion that the same rule should be applied in the case of the applicant. The Hon'ble High Court at Jaipur even allowed the entire arrears of the pay scale of Rs.260-350 from the date of their initial appointment and the matter had gone to the Hon'ble Supreme Court which also restricted the arrears for a period of 3 years. These judgments are binding on this Bench. Relying upon the judgment of the Hon'ble Supreme Court, we are of the opinion that the applicant is also entitled to the same treatment.



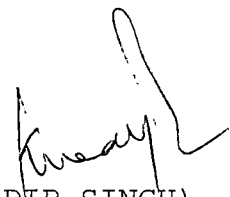
He cannot be discriminated and the OA has to be allowed.

6. Accordingly, the respondents are directed to allow the pay scale of Rs. 260-350 w.e.f. 26<sup>th</sup> May, 1980 and Rs. 950-1500 from 1.1.1986 and further corresponding scale w.e.f. 1.1.1996 with all consequential benefits. However, the arrears of pay and allowances shall remain restricted to 3 years prior to the date of filing of the original application as allowed by Hon'ble Supreme Court.

7. The OA is disposed of accordingly with no order as to costs.

  
(J.P. SHUKLA)

Administrative Member

  
(KULDIP SINGH)

Vice Chairman

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