

Central Administrative Tribunal
Jaipur Bench, JAIPUR

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ORDERS OF THE BENCH


23rd July, 2009


OA. 488/2006

Present: Shri C.B. Sharma, counsel for applicant
Shri V.S.Gurjar, counsel for respondents

Heard counsel for the parties.

For the reasons to be dictated separately the OA stands disposed
of.


(B.L. Khatri)
Member (Administrative)


(M.L. Chauhan)
Member (Judicial)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 23rd day of July, 2009

OA No.488/2006

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDL.)
HON'BLE MR. B.L.KHATRI, MEMBER (ADMV.)

Ashok Kumar Jain,
Shri Sujan Chand Jain,
r/o Chhabra Bhawan,
Manak Chowk, Purani Tonk and
Presently working as Wireman (Electrical),
Office of Superintendent of Post Offices,
Tonk Postal Division,
Tonk.

.. Applicant

(By Advocate: Shri C.B.Sharma)

Versus

1. The Union of India through its Secretary to the Govt. of India, Department of Posts, Ministry of Communications and Information Technology, Dak Bhawan, New Delhi.
2. Chief Postmaster General, Rajasthan Circle, Jaipur.
3. Superintendent of Post Offices, Tonk Postal Division, Tonk.

.. Respondents

(By Advocate: Shri V.S. Gurjar)

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ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

- (a) That the respondents may very kindly be directed by an appropriate order that the humble applicant be treated at par in the matter of pay and allowances with their counter parts working in the same department and by various pronouncement of this Hon'ble Tribunal, the respondents be directed to allow the pay scale of Rs. 260-350 w.e.f. 29/5/1980, 950-1500 w.e.f. 1.1.1986 and further corresponding scale w.e.f. 1/1/1996 with all consequential benefits including arrears of pay & allowances after due fixation.
- (b) That the respondents be further directed to allow the similar benefits as allowed to the similarly situated employees in the matter of pay scale of Wireman.
- (c) Any other benefit which the Hon'ble Tribunal deem proper be ordered to be given to protest the principle of Equal pay for Equal work.

2. Briefly stated, facts of the case are that the applicant was initially appointed as Wireman alongwith other persons in the pay scale of Rs. 210-270 vide order dated 26.5.1980 (Ann.A/1). It may be relevant to mention here that certain persons who were appointed in the pay scale of Rs. 260-350, which pay scale was subsequently withdrawn and was given the pay scale of Rs. 210-270 as according to the respondents it was correct pay scale of

the post, such persons as well as other persons who were given appointment in the scale of Rs. 210-270 filed various OAs before this Tribunal and the said OAs were allowed and applicants therein were held entitled to the pay scale of Rs. 260-350 and to equivalent pay scale effective from time to time from the date of their respective appointment. The applicant has placed on record copy of such judgments as Ann. A/2, A/3, A5, A/6, A/7, A/8, A/9 and A10. Since the applicant was not given the higher pay scale, as such, he has filed this OA based on the aforesaid judgments.

3. It is not in dispute that the issue involved in the present OA is covered by the judgments rendered by this Tribunal on which reliance has been placed by the applicant. The case of the respondents is that higher pay scale of Rs. 260-350 has been given only to those persons who have approached this Tribunal. The respondents have also taken objection of limitation to defeat the claim of the applicant.

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4. When the matter was listed on 16.4.2009, this Tribunal directed the respondents to file an affidavit thereby stating as to how many employees in the Rajasthan Circle have been extended the benefit of higher pay scale and how many employees who were similarly situated have not been granted such benefit. The respondents have filed additional affidavit whereby it has been stated that as per scrutiny of record benefit of higher pay scale has been extended to 17 Wiremen in Rajasthan Circle and there are 3 Wiremen to whom the benefit of higher pay scale has not been granted, which also includes the applicant in the present case. Thus, in view of the judgment rendered by various courts and the fact that even the Apex Court has upheld grant of higher pay scale of Rs. 260-350 and to the equivalent pay scale effective from time to time to the category of Wireman, it was incumbent upon the respondents to extend the similar benefit to all the employees similarly situated without dragging them into courts of law. At this stage, it will be useful to quote some observations of the Hon'ble High Court in D.B. Civil Writ Petition No. 7420/02 dated

2.12.2002 (Ann.A/12), relevant portion of which thus reads:-

".....The Union of India and its officers should not harass the poor employees in the manner as what it has been done in the present case. Once this decision was there which has been confirmed by the Supreme Court also, the similarly situated persons should have been given the benefits by the petitioners themselves. But the Union of India has acted contrary to what it is expected and desirable by the founding father of the Constitution from it. It is not expecting from a welfare State, a State for peoples and by the peoples. The officers of the Union of India are to take care that the poor employees are not unnecessarily dragged in the litigation. Not only this they should be very selective in challenging the order of the Tribunal and the Courts. It is not a prestigious issue of an officer not to accept the decision given by the CAT or the Court in favour of the employee. This tendency of the officers of the Union of India not to allow a single order of the Tribunal/Courts to go unchallenged deserves to be deprecated."

5. Despite such observations made by the Hon'ble High Court, the respondents have not extended the benefit of the higher pay scale/equivalent pay scale to the applicant which has resulted in filing of this OA. At this

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stage, it will also be useful to quote decision taken by the Hon'ble Supreme Court in SLP No. 11283-11284/2001 dated 1.3.2002 which is in the following terms:-

"Inasmuch as the tribunal has followed its earlier Order in the matter and it is now brought to our notice that in similar matters the order made by the Tribunal has been given effect to, no useful purpose will serve in interfering with the order made by the tribunal as affirmed by the High Court except to the extent to state that the High Court ought not to have granted full arrears of salary and should have limited the same for a period of three years preceding the date of the respective applications filed before the Tribunal. Subject to the modification made above, this Special Leave Petition stands dismissed."

6. Thus, in the light of the decisions rendered by various benches of the Tribunal and in the light of the order passed by the Hon'ble Supreme Court, as reproduced above, we are of the view the applicant is also entitled to the same relief.

Since the applicant has been denied benefit of his legitimate claim which is recurring cause, as such, the objection of the respondents that the present OA is filed beyond the period of limitation, cannot be accepted,

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more particularly, when the arrears of salary has been restricted to three years.

7. At this stage, it will also be useful to notice decision of the Hon'ble Apex Court in the case of State of Karnataka and Ors. vs. C.Lalitha, 2006 SCC (A&S) 447 where by Apex Court in para 29 has observed as under:-

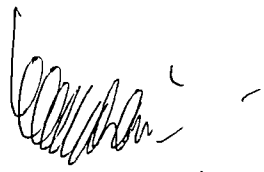
“29. Service jurisprudence evolved by this Court from time to time postulates that all persons similarly situated should be treated similarly. Only because one person has approached the court that would not mean that persons similarly situated should be treated differently.....”

8. Thus in view of what has been stated above, we are of the view that the applicant has made out a case for grant of relief. Accordingly, the present OA is allowed. The applicant shall be entitled to the higher pay scale of Rs. 260-350 and to equivalent pay scale effective from time to time right from the date of his appointment. He will also be entitled to the difference of pay scale as arrears but only for a period of three years preceding the date of filing of this OA.



9. The OA is allowed accordingly with no order as to costs.


(B.L.KHATRI)
Admv. Member


(M.L.CHAUHAN)
Judl.Member

R/