

(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH
ALLAHABAD**

ALLAHABAD this the 27th day of *July*, 2018.

HON'BLE MR. GOKUL CHANDRA PATI, MEMBER (A).

Original Application Number. 330/01304/2009

Mohd. Alam, Son of Late Mohd. Ibrahim, R/o Miyanpur, Post
Kachahari, District Jaunpur.Applicant.

VER S U S

1. Union of India through its Secretary, Ministry of
Communication, Department of Posts, Dak Bhawan, Sansad
Marg, New Delhi.
2. The Post Master General, Allahabad.
3. Superintendent of Post Offices, Jaunpur Division, District -
Jaunpur.

.....Respondents

Advocate for the applicant : Shri P.K. Srivastava

Advocate for the Respondents: Shri R.K. Srivastava

ORDER

Heard Shri P.K. Srivastava, counsel for the applicants and Shri
D. Tiwari, proxy for Shri R.K. Srivastava, counsel for respondents.

2. By way of this original application, the applicant has prayed
for a direction to the respondents to consider the representation
dated 20.02.2009 (Annexure-A) and the applicant may be paid
wages as per minimum pay scale as per rules of the Government.

3. The case of the applicant is that he was engaged on daily wage basis by the respondents from 06.10.1997 as a Wireman against a vacancy. He was being paid wages initially @ Rs. 162 per day which was minimum of the pay scale of Wireman till 30.09.2006. The wages paid to him was reduced to Rs. 144 per day w.e.f. 01.10.2006. The applicant submitted representation dated 09.11.2006 on which no action has been taken. He submitted several reminders and one of his representation dated 20.02.2009 (Annexure -A) addressed to the respondent No. 3 has been forwarded by him to the respondent No. 2 vide letter dated 03.06.2009 (Annexure A-4). It is stated that the said representation is pending with the respondent No. 2.

4. Respondents have not disputed the factual position and countered the OA on following grounds : -

(a). There is delay in filing OA under section 21 as the cause of action arose to the applicant from the date of submission of first representation i.e. 09.11.2006.

(b). It is not correct to say that the applicant was appointed as Wireman. His services were required as per availability of work and the wages paid to him daily.

(c). It is stated that the wages paid to the applicant was reduced w.e.f. 01.10.2006 as per GO dated 24.02.2006, by

which the applicant was treated as skilled worker, which has been duly informed to him.

5. Rejoinder Affidavit has been filed by the applicant in which no new facts have been brought on record. There is also a Suppl. Rejoinder Affidavit filed by the counsel for the applicant. The applicant has also enclosed a letter dated 05.08.2011 from the respondent No. 2 which states that the applicant would be paid daily wages to the minimum of pay scale of Rs. 2650-4000 of Wireman + DA etc. However, the said letter dated 05.08.2011 has not been implemented and the applicant is still getting the pay scale, which was applicable prior to issuance of this letter.

6. We have heard learned counsel for the parties. Prayer in this case is to give a direction to the respondent No. 2 to consider the representation of the applicant dated 20.02.2009, which can be done only after deciding the issue of delay, which has been raised by the respondents in the Counter Affidavit.

7. The claim of the applicant is regarding the wages which is payable on daily or weekly or monthly basis. The applicant's case is that the respondents have suddenly reduced the rate of wages being paid to him prior to 01.10.2006. Since the dispute is relating to the claim relates to the payment of wages, it is a recurring cause

of action in terms of the several judgments of Hon'ble Supreme Court some of which have been referred in para 6 of the Rejoinder Affidavit. The leading case in such matters is of **M.R. Gupta Vs. Union of India & Ors reported in 1995 SCC(5) 628** where it is held by the Hon'ble Apex Court that in case of a dispute relating to pay scale or salary which is paid to an employee is a recurring cause of action. Hence, the limitation under section 21 of Administrative Tribunals Act, 1985 will not apply except for the purpose of arrears of dues.

8. In view of the facts mentioned above, the objection raised by the learned counsel for respondents on the ground of limitation is not acceptable. The OA is considered within time. Accordingly, taking into consideration the prayer of the applicant to consider his representation pending with the respondent No. 2 , the OA is partly allowed with direction to the Post Master General, Allahabad (respondent No. 2) to decide the representation of the applicant dated 20.02.2009 (Annexure -A) as per rules by passing a reasoned and speaking order copy of which is to be communicated to the applicant, within a period of two months from the date of receipt of certified copy of this order. No costs.

MEMBER- A.

Anand...