

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA 3744/2012
MA 699/2013

Reserved on: 17.03.2016
Pronounced on: 22.03.2016

Hon'ble Mr. P.K. Basu, Member (A)
Hon'ble Mr. Raj Vir Sharma, Member (J)

Arjun Lal Makhija
S/o Shri Ishwar Dass
R/o F-58, Moti Nagar,
New Delhi

... Applicant

(Through Mrs. Rani Chhabra, Advocate)

Versus

1. Delhi Jal Board,
Through its Secretary
Govt. of NCT of Delhi, Varunalaya Ph-II
Karol Bagh, New Delhi-5
 2. The Administrative Officer (Bulk)
Delhi Jal Board,
Govt. of NCT of Delhi, Varunalaya Ph-II
Karol Bagh, New Delhi-5
 3. Chief Executive Officer,
Delhi Jal Board,
Govt. of NCT of Delhi, Varunalaya Ph-II
Karol Bagh, New Delhi-5
- ... Respondents

(Through Shri Nishakant Pandey, Advocate)

ORDER

Mr. P.K. Basu, Member (A)

The applicant was appointed as Assistant Meter Reader and Mechanic (AMR&M) in Delhi Jal Board (DJB) on 11.12.1980. It is stated that similarly other persons namely Ashok Kumar Sharma, Suresh Kumar Gupta, Des Raj and Suresh Kumar

Tanwar were also appointed as AMR&M after the applicant on 27.02.1981, 27.11.1980, 25.07.1981 and 24.04.1982. They were all appointed along with the applicant in the pay scale of Rs.330-560. After the 4th Pay Commission, AMR&M were placed in the pay scale of Rs.1200-2040 whereas the other employees of equivalent categories in similar pre-revised pay scales were placed in the pay scale of Rs.1320-2040 and based on recommendations of 4th CPC, vide office order dated 17.08.1987, pre-revised pay scale of Rs.330-560 was revised to Rs.1320-2040. Four persons named above raised an industrial dispute and the Industrial Tribunal vide order dated 28.01.2002 passed an Award in favour of the Workmen and directed the management to place them in the pay scale of Rs.1320-2040 and designate them as Meter Reader-cum-Mechanic. This Award was challenged before the Hon'ble High Court in Writ Petition No.18503/2004, which was dismissed for non-prosecution.

2. The pay scales of juniors to the applicant were revised but the applicant continued in the old scale. He filed representation but did not receive any response. Since the applicant was senior most AMR&M, vide order No.168 dated 8.06.2007, he was promoted to the post of Meter Inspector on regular basis in the pay scale of Rs.5000-8000. After he was promoted to the post of Meter Inspector, he has been drawing lesser salary than the Meter Reader cum Mechanic with effect from 1.01.1986. The applicant was thereafter granted first upgradation under Assured Career Progression Scheme (ACPS) in the pay scale of Rs.5000-8000 on 9.08.1999 and second ACP with effect from 11.12.2004

in the pay scale of Rs.5500-9000. After the 6th CPC pay grades came into effect, the applicant was placed in PB-2 with Grade Pay of Rs.4200/- whereas his juniors are drawing Grade Pay of Rs.4600/-. Being aggrieved by such action of the respondents, the applicant has filed the instant OA seeking the following reliefs:

- (a) Direct the respondents to refix/ revise the pay scale of the applicant and re-designate him on the post of Meter Reader and place him in scale of Rs.1320-2040 with effect from 1.01.1986 and place him in higher scale on his promotion to the post of Meter Inspector (Bulk);
- (b) Direct the respondents to grant him all benefits being enjoyed by his juniors.

3. Learned counsel for the applicant states that the matter before the Additional District and Sessions Judge : Presiding Officer : Industrial Tribunal was between the management of M/s Delhi Water Supply and Sewage Disposal Undertaking and its Workmen represented by Municipal Employees' Union and the term of reference was as follows:

"Whether S/Sh. Ashok Kumar Sharma, Suresh Kumar Gupta, Des Raj and Suresh Kumar Tanwar, Asstt. Meter Reader-cum-Mechanic are entitled to pay scale of Rs.1320-2040 w.e.f. 1.1.1986 and to be designated as Meter Reader-cum-Mechanic and is so to what relief including all consequential benefits thereof are they entitled and what directions are necessary in this respect?"

4. The Industrial Tribunal passed order in favour of the Workmen i.e. pay scale of Rs.1320-2040 with effect from 1.01.1986, when the 4th Pay Commission was implemented. In fact, as a result, these four Workmen got the higher pay scale of Rs.1320-2040 with effect from 1.01.1986 but the applicant was continued in the pay scale of Rs.1200-2040 despite being senior to them.

5. Earlier this OA came to be dismissed by the Tribunal on the ground of limitation. The applicant filed Writ Petition No.8931/2014 and vide order dated 7.04.2015, the Hon'ble High Court remanded the matter back to this Tribunal for deciding the claim of the petitioner on merits after giving due opportunity to the parties.

6. The applicant has also filed along with his rejoinder at Annexure RA-1, a copy of his salary slip (gross salary Rs.49,994/-) for the month of August, 2013 as well as salary slip of his junior named Shri S.K. Tanwar (gross salary Rs.50,570/-) for the same month as evidence that he is drawing lesser pay.

7. Learned counsel for the respondents drew our attention to para 3 of their reply, which reads as under:

"3. That the present Original Application is also not maintainable as the issue raised by the applicant is now well settled as the pre-revised scale of Rs.5000-8000 and 5500-9000 were merged in the VIth Central Pay Commission in the pay band of Rs.9300-34800 with grade pay of Rs.4200/- and vide Office Order No.112 dated 17.10.2012, applicant has been granted grade pay of Rs.4800/- w.e.f. 11.12.2010 after completion of 30 years regular service under

MACP Scheme. Thus the grievance of the applicant does not exist anymore and the present Original Application is liable to be rejected on this count also."

8. We have heard the learned counsel for the parties and gone through the pleadings available on record.

9. In our view, the issue before the Industrial Tribunal was the same and after going into the merits of the case, it came to the conclusion that four Workmen namely S/Shri Ashok Kumar Sharma, Suresh Kumar Gupta, Des Raj and Suresh Kumar Tanwar were entitled to the pay scale of Rs.1320-2040 with effect from 1.01.1986 as also entitled to be re-designated as Meter Reader-cum-Mechanic. This matter came before the Hon'ble High Court and the Writ was dismissed for non-prosecution.

10. It would be clear from the order of the Industrial Tribunal that it did not decide specific case of S/Shri Ashok Kumar Sharma, Suresh Kumar Gupta, Des Raj and Suresh Kumar Tanwar. It decided the case for that category of the employees and, therefore, it should apply to all employees including the applicant in that category. In fact, non-implementation of the order of the Industrial Tribunal in the case of the applicant has culminated into a paradoxical situation where the senior is at a lower pay scale than his juniors. The reply of the respondents does not address the main issue at all. What happens after merger of the scales of the 6th Pay Commission is not an issue here. The issue here is whether the applicant is entitled to the

pay scale of Rs.1320-2040 with effect from 1.01.1986 with change of designation as Meter Reader-cum-Mechanic, akin to his juniors. The answer is clearly in the affirmative based on the facts stated above.

11. The OA is, therefore, allowed and the respondents directed to refix the pay of the applicant in the revised pay scale of Rs.1320-2040 with effect from 1.01.1986 and re-designate him on that date as Meter Reader-cum-Mechanic. Since the applicant has now retired, his pension and other retiral benefits would also be reworked and the balance paid to him. Applicant's pay would be fixed notionally from 1.01.1986 in the new pay scale but arrears payable only from the date of filing of this OA namely 6.11.2012. The time frame fixed for compliance of our order is three months from receipt of a copy of this order. No costs.

(Raj Vir Sharma)
Member (J)

(P.K. Basu)
Member (A)

/dkm/