

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.3936/2013

Reserved on - 12.01.2017

Pronounced on - 24.01.2017

Hon'ble Mr. P.K.Basu, Member (A)
Hon'ble Dr. Brahm Avtar Agrawal, Member (J)

Mr.Anil Ailawadi,
Resident of:
14/7, West Patel Nagar,
New Delhi-110008

Retired as:
Joint General Manager-Finance (WS)
Mahanagar Telephone Nigam
Ltd (MTNL).

... Applicant

(Through: Mr.Puneet Yadav)

VERSUS

Mahanagar Telephone Nigam Ltd.

Through:
Chairman and Managing Director
MTNL Building (5th Floor)
CGO Complex, Lodhi Road,
New Delhi-110001.

... Respondent

(Through: Ms. Rachana Joshi Issar, Advocate)

ORDER

Hon'ble Mr. P.K.Basu, Member (A):

The applicant was directly recruited as Deputy Manager to Mahanagar Telephone Nigam Limited (MTNL) in the year 1986 in the CDA scale (3rd CPC) of Rs.1300-1700. This was revised to the CDA scale of Rs.3000-5000 after the 4th CPC recommendation. The applicant was later promoted as Manager (Accounts) in the CDA scale (4th CPC) of Rs.3700-5000. The post of the applicant was re-designated as Deputy General Manager (Finance) vide order dated 22.03.1991. Subsequently, vide order dated 08.08.1994, he was

granted the modal IDA pay scale of Rs.5550-165-6870 (corresponding to CDA 3rd CPC pay scale of 2000-2250/2000-2500).

2. He was further promoted as Joint General Manager (IA) in the IDA (1997) pay scale of Rs.18500-450-23900 vide order dated 23.05.2002.

3. The applicant superannuated from the services of the respondent on 31.07.2011. The grievance of the applicant is that while he was granted the scale of Rs.18500-23900, which was the E-7 pay scale, those officials who had come over from DOT and got absorbed in MTNL were granted the higher pay (E-8) scale of 23750-28550 and E (9) pay scale of 25750-30950 as per the IDA pay scale implemented w.e.f. 01.01.1997. The revised IDA pay scale w.e.f. 01.01.2007 for E-7, E-8 and E-9 are stated to be 43200-66000, 51300-73000 and 62000-80000 respectively.

4. The applicant had approached this Tribunal earlier in OA No.1299/2012 regarding his claim of granting of pay scales of E-8 and E-9. His contention was that he has been discriminated against while giving effect to fixation of his salary from the CDA scale to IDA scale. The OA was disposed of vide order dated 20.04.2012 with a direction as follows:

"7. Therefore, the respondent authorities are directed to consider his representation dated 13.03.2012, and the earlier Legal Notice dated 13.05.2011, in the light of his seniority position appropriate speaking orders for granting the appropriate reliefs due to the applicant. Needless to add that if the applicant is still dissatisfied, he shall be at liberty to agitate the matter once again before the appropriate forum."

In his representation dated 13.05.2011, the applicant had raised his grievance that those who had been absorbed in MTNL from DOT in the

year 2000 had been given higher IDA scale as compared to the scale granted to the applicant. The representation dated 13.03.2012 reiterated the same issue.

5. On the direction of the Tribunal in OA No.1299/2012, the respondent has issued a detailed speaking order dated 12.12.2012 addressed to the applicant. The gist of the reply is that the applicant had joined MTNL as a Group 'B' officer and not as a Group 'A' officer. At the time of absorption, the DOT employees were given seniority as per terms of absorption with respect to their counter part recruited directly by MTNL. Lastly implementation of IDA pay scale was uniformly implemented for all executives of all streams as per DPE guidelines.

6. Thus, the applicant's case was rejected which has now been challenged. Para 14 of that aforesaid letter also speaks of up-gradation of CRs and it is mentioned that in case the applicant wishes he can make a representation and, only upon ACRs for the period 2004-05, 2007-08 and 2010-11 being upgraded, there shall be any question of financial up-gradation to the grade of E8/ E9. The learned counsel for the applicant, however, clarified that the applicant prayer is for up-gradation of his pay scale to E-8 and E-9 w.e.f. 1.10.2000 and 23.05.2002 on the ground of discrimination vis-à-vis absorbed DOT employees and in this regard has specifically referred to the case of one Pankaj Yadav and Asha Thampi who according to the applicant are juniors to him in the provisional seniority list circulated vide office order dated 02.03.2012 but are placed in E9 and E-8 respectively.

7. On the direction of the Tribunal, the respondent has filed additional affidavit regarding whether there has been any

discrimination against the applicant as alleged by him. In their additional affidavit, the following chart has been included:

| Sl. No. | Name of the officer | Designation as on 01.10.2000 | Basic pay on Post Absorption in MTNL as on 01.10.2000 |
|---------|---------------------|------------------------------|---|
| 1. | Pankaj Yadav | Offtg.DGM | 18300/- |
| 2. | Asha Thampi | Offtg.(CAO) | 16000/- |
| 3. | Anil Ailawadi | DGM | 19500/- |

It is stated that this chart would show that the basic pay on absorption of the applicant is, in fact, higher than Pankaj Yadav and Asha Thampi.

8. Heard the learned counsel and perused the records. As per the additional rejoinder to the additional affidavit filed by the applicant dated 27.01.2016 annexed as P-19 (colly), it is seen that the pay scale of E-5 to E-9 were as follows:-

| A | B | C | D | E | F |
|-------------------------------------|--|---------------------------------|-------|-------------------------------------|-----------------------------------|
| 4 th CPC wef 1.1.1986 | IDA pay scale w.e.f.1.01.1992 | IDA Pay Scale w.e.f. 01.01.1997 | | 5 th CPC wef 1.1.1996 | IDA pay scale w.e.f. 01.01.1997 |
| CDA | Corresponding IDA allowed to MTNL Executives | Revised IDA pay scale | Grade | Equivalent CDA revised wef 1.1.1996 | Revised IDA allowed DOT absorbees |
| 2200-2800 2200-4000 3000-4500 | 4000-7150 5400-9050 | 8600-14600 13000-18250 | | 8000-13500 | 14500-18700 |
| 3000-5000 | 6500-9425 | 14500-18700 | | 10000-15200 | 16000-20800 |
| 3700-4450 3700-5000 | 7000-9600 @ | 16000-20800 | E-5 | 12000-16500 | 17500-22300 |
| 4100-5300 4500-5700 | 7500-9900 | 17500-223000 | E-6 | 14300-18300 | 18500-23900 |
| 5100-5700 5100-6150 5100-6300 | 8250-1000 8500-10300 | 18500-23900 | E-7 | 16400-20000 | Not implemented |
| 5900-6700 5900-7300 | 9500-11500 | 20500-26500 | E-8 | 18400-22400 | 23750-28550 |
| 7300-7600 | 11500-13500 | 23750-28550 | E-9 | 22400-24500 | 25750-30950 |

From the above it appears that the IDA pay scale w.e.f. 1.1.1997 for DOT absorbee was at each stage one higher than those to corresponding MTNL executives. There is no mention either in the

counter affidavit or in the additional counter affidavit dated 16.11.2015 why this was so. Office order dated 14.5.2010 regarding revision of pay in respect of Board level and below Board level Executives of MTNL issued on 14.05.2010 and made effective from 01.01.2007 shows the following pay scales:

| Grade | Pre-Revised (Rs.) 1997 Pay Scales (IDA) | Revised (Rs.) 2007 Pay Scales (IDA) |
|-----------------|--|--|
| E-1 | 8600-250-14600 | 16400-40500 |
| E-2 | 10750-300-16750 | 20600-46500 |
| E-3 | 13000-350-18250 | 24900-50500 |
| E-4 | 14500-350-18700 | 29100-54500 |
| E-5 | 16000-400-20800 | 32900-58000 |
| E-6 | 17500-400-22300 | 36600-62000 |
| E-7 | 18500-450-23900 | 43200-66000 |
| E-8 | 20500-500-26500 | 51300-73000 |
| E-9 | 23750-600-28550 | 62000-80000 |
| E-9+ | 25000-650-30200 | 62000-80000* |
| Director (A) | 25750-650-30950 | 75000-100000 |
| CMD (A) | 27750-750-31500 | 80000-125000 |

Therefore, as per this chart, the applicant has rightly been given the pay scale of Rs.43200-66000 w.e.f. 01.01.2007. However, if we look at the earlier chart it would appear that w.e.f. 01.01.1997, the absorbees stole a march over the MTNL recruitees because the former got higher IDA scales. Therefore, in order to understand the order dated 14.05.2010 one would have to go back to IDA scale implemented w.e.f. 1.01.1997 and that is where the grievance of the applicant lies on two counts:-

- (i) The DOT absorbees were given higher pay scale across the Board from the basic grade right upto E-9;
- (ii) The scale of Rs.18500-23900 was not implemented at all for the DOT absorbee.

As stated earlier, there is no explanation by the respondent as to why the revised IDA scale for the DOT absorbee were higher than the revised scale of direct recruit of as MTNL executives because the revision of IDA pay scale w.e.f. 1.1.1997, purportedly for all categories, namely, direct recruit and absorbed employees, will work to the disadvantage of direct recruits in MTNL because they would be in scale lower than the DOT absorbed employees as per the 1.1.1997 IDA pay scale. The chart produced by the respondent in their additional affidavit comparing basic pay of Pankaj Yadav, Asha Tampi and Anil Ailawadi is not relevant at all as the pay grade is relevant and not the basic pay. Prima facie, therefore, there seems to be discrimination between the two class of employees, namely, directly recruited MTNL executive and DOT absorbees starting from the revision of IDA pay scale in 1.1.1997. Prior to that the IDA pay scales w.e.f. 1.1.1992 is the same for both categories. Since there is no explanation from the respondent side justifying the different pay scales granted to MTNL direct recruit executive and DOT absorbees, we have no option but to treat this as discrimination and direct the respondent to grant same pay scale to the applicant as well. If the MTNL executives are to be given revised IDA pay scale w.e.f 1.1.1997 as DOT absorbee employee than the applicant would have been in 20500-26500 (E-8) and his revised pay would have been 51300-73000 w.e.f. 23.05.2002 when he was granted the IDA (1997) scale of Rs.18500-23900. The question of whether he would be promoted to the next higher grade i.e. 62000-80000, since there is an issue of adverse ACRs for the period 2004-05, 2007-08 and 2010-11 and the applicant had not taken steps to make a representation for upgradation of his ACR,

his case for promotion to E-9 obviously cannot be considered now. In summary, we direct that the applicant be granted the pay scale of Rs.51300-73000 from 23.05.2002 with all consequential benefits including arrears of pay and revision of his pension. No costs.

(Dr.Brahm Avtar Agrawal)
Member (J)

(P.K.Basu)
Member (A)

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