

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.169/2018

Dated this Wednesday the 10th October, 2018

CORAM:HON'BLE SHRI R. VIJAYKUMAR, MEMBER (A)
HON'BLE SMT RAVINDER KAUR, MEMBER (J)

1. Namdev B. Katkade,
working as Chief Electrician with
Film Division, 133, 'D' Block,
Type III, Jain Derasar Marg,
CGHS Colony,
Wadala (W), Mumbai – 31.
2. Vivek S. Naiksatam
Working as Electrician with
Film Division, R/at. 195/2147,
Sector 6, Kane Nagar,
Antop Hill, Mumbai – 37.
3. Tukaram K. Dalvi
Working as Electrician with
Film Division & residing at
Yeshovardhan CHS, Plot No.35,
A/401, Sector-8, sanpada (E),
Navi Mumbai.
4. Pravin B. Labade, working as
Electrician with Film Division,
R/at Shantinikethan Chawl Committee,
'E' Group, Surya Nagar,
Vikhroli (W), Mumbai – 83.
5. Rohidas T. Kakade,
Working as electrician with
Film Division, residing at
19/208, TBS Type II, CGS Colony,
LBS Marg, Ghatkoper (W),
Mumbai – 86.
6. Saleem Ahmed,
Retired as Chief Electrician w.e.f
with Film Division and residing at
43/92, Karamat Chawl,
Yusuf Azad Kawal Marg,

Balgrami Road, Kurla (W)
Mumbai – 70

... **Applicants**

(By Advocate Shri S.N. Pillai)

Versus

1. Union of India, through
The Secretary, Ministry of
Information & Broadcasting,
'A' Wing, Shastri Bhawan,
New Delhi 110 115.
2. The Director General,
Film Division,
24, Dr. Gopalrao Deshmukh Marg,
(Peddar Road), Mumbai – 26. ... **Respondents**

ORDER

Per : Shri R. Vijaykumar, Member (A)

When the case is called, heard Shri S.N. Pillai, learned counsel for the applicants at length. This application has been filed by the applicants seeking the following reliefs:-

"8(i) That this Hon'ble Tribunal be pleased to call for the records and proceedings pertaining to the request of the applicants for upgradation of Pay scales at par with the lighting Assistants of Doordarshan and the recommendations made by the respondent No.2 as well as the steps taken by the respondent No.1 and after perusal of the same declare that the Electricians in Film Division are entitled to Pay Band Rs.5200-20200 plus Grade Pay Rs.2800/- at par with the lighting Assistants of Doordarshan and the Chief Electrician is entitled to Pay Band Rs.9300-34800 plus G.Pay Rs.4200/- with effect from 01.01.2006.

(ii) That this Hon'ble Tribunal be pleased to direct the respondents to

pay to the applicants arrears of pay and allowance w.e.f. 01.01.2006 after fixing their pay as prayed for in prayer clause (i) above.

(iii) any other and further relief as this Hon'ble Court may deem fit and proper under the circumstances of the case.

(iv) Cost of this Application be awarded."

2. MA No.503/2018 for Joint Petition is allowed.

3. The applicants were recruited as Electrician in Films Division of the Ministry of Information and Broadcasting prior to 1985. At that time, two posts and opportunities for employment were available as Electrician with pay scale of Rs.320-400 in the Films Division and as Lighting Assistant in Doordarshan both in the same Ministry but different departments, with pay scale of Rs.330-425. The applicants have not enclosed the RRs but have made a typed version which summarises the RRs for the two categories at Annexure A-3 and which they claim are identical in terms of education qualification and type of work. At that point of time, the pay scale of the Chief Electrician, Film Division was Rs.380-450 which was higher than the Lighting Assistant in Doordarshan. By the 4th Pay Commission in 01.01.1986, the Lighting Assistant received a higher pay scale

and this has continued through different Pay Commissions. On 12.12.2006, the applicants who were Electricians and Chief Electricians petitioned for pay parity with the Lighting Assistants of Doordarshan but despite recommendations, the 6th CPC did not make any specific recommendations. On 02.04.2014, the applicants again represented including through their Association and also made representations to the 7th CPC demanding pay parity. The 7th CPC also did not support their demand. Later, the applicants requested their department (Respondent No.-2) to refer the matter to the Anomaly Committee in their letter dated 26.09.2016 which was referred accordingly on 24.11.2016 and despite a reminder, they have not received any response.

4. Learned counsel for the applicants was enquired as to why, if the qualifications and eligibility of the applicants was the same for Electrician and Lighting Assistant at the time of Recruitment, they do not choose the better option of Lighting Assistant for which he had no useful answer. He was also enquired on the role and the jurisdiction of this Tribunal in deciding matters of pay parity between posts in different departments and his only argument was that pay parity was necessary considering that

both posts were created in different departments but within the same Ministry of Information and Broadcasting. He depended on a decision of the Hon'ble High Court of Mumbai in **State of Maharashtra Vs. Parshuram s/o. Laxman Karandikar** in Writ Petition No.5988/2014 decided on 07.02.2017 reported in **2017(3) Mh.L.J.290** in which parity was held necessary between special teachers in Government schools meant for specially challenged children and special teachers working in private schools run for specially challenged children and for whom, salaries were paid by the Government.

5. The matter has been carefully considered. The issue of parity has been considered in various judgments of this Tribunal, Principal Bench in OA No.4609/2011 decided on 16.02.2016 between **Satya Prakash and Others Vs. Union of India and Others** on the relevant claims for parity between Sanitary Inspector and Malaria Inspector/Filaria Inspector wherein two decisions of the Hon'ble Apex Court were reproduced:-

"9. The Hon'ble Supreme Court in case of **Union of India and another Vs. P.V. Hariharan (CA7127/1993) 1997 SCC (L&S) 38** cautioned the Tribunals in interfering with the pay scales since it was a serious matter and has a cascading effect on several other categories. Hon'ble Court made the

following observation:-

"Before parting with the appeals we feel to impelled to make a few observations. Over the past few weeks, we have come across several matters decided by Administrative Tribunal on the question of pay scales. We have noticed that quite often the Tribunals are interfering with pay scales without proper reasons and without being conscious of the fact that fixation of pay is not their function. It is the function of the Government which normally acts on the recommendations of a Pay Commission."

10. In another Apex Court case of **Secretary Finance Department and Others Vs. West Bengal Registration Service Association and Others, JT 1992 (2) SC 27** it is laid down that the parameters for interference of the court in such matters would be limited:-

"We do not consider it necessary to traverse the case law on which reliance has been placed by counsel for the appellants as it is well settled that equation of posts and determination of pay scales is the primary function of the executive and not the judiciary and, therefore, ordinarily courts will not enter upon the task of job evaluation which is generally left to expert bodies like the pay commissions etc. But that is not to say that the court has no jurisdiction and the aggrieved employees have no remedy if they are unjustly treated by arbitrary state action or inaction. Courts must, however, realize that job evaluation is both a difficult and time consuming task which even expert bodies having the assistance of staff with requisite expertise have found difficult to undertake sometimes on account of want of relevant date and scales for evaluating performances of different groups of employees. This would call for a constant study of the external

comparisons and internal relativities on account of the changing nature of job requirements. There can, therefore, be no doubt that equation of posts and equation of salaries is a complex matter which is best left to an expert body unless there is cogent material on record to come to a firm conclusion that a grave error had crept in while fixing the pay scale for a given post and courts interference is absolutely necessary to undo the injustice."

6. In the circumstances, it is apparent that this Tribunal has no jurisdiction to venture into the administrative domain of the respondents in the manner proposed in this application and the reliefs sought in this application. The OA is clearly not maintainable and is accordingly dismissed. MA No.504/2018 also stands closed. No order as to costs.

(Smt Ravinder Kaur)
Member (J)

(R. Vijaykumar)
Member (A)

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