

**Central Administrative Tribunal
Madras Bench**

OA/310/00399/2015

Dated 5th day of November Two Thousand Nineteen

P R E S E N T

**Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)**

1. M.Jayaraj
2. K.Maurimuthu .. Applicants

By Advocate **M/s.V.Ajoy Khose**

Vs.

1. Union of India, rep. by its
Director,
General of Posts,
New Delhi.
2. Chief Postmaster General,
Tamilnadu Circle,
Anna Salai,
Chennai 600 002.
3. The Senior Superintendent of Post Offices,
Tiruchirapalli 620 001. .. Respondents

By Advocate **Mr.C.Kulanthaivel**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

The above OA is filed seeking the following relief:-

“.....to quash the order dt. 17.4.14 in APA/86-879/1/2013 of the 2nd respondent and direct the respondents to pay the applicants the scale of pay of technicians namely 4500-125-7000 from the date on which they became ACP-I Wireman and the scale of pay of Rs.5000-150-8000 from the date on which they became ACP-II Wireman, with arrears and all other consequential benefits, together with interest at the rate of 12% per annum and thus render justice.”

2. The facts of the case as stated by the applicants are that they were working as Wiremen from 01.6.1983. They were granted ACP I in the year 1999 and they were placed in the pay scale of 4000-100-6000 and subsequently they were granted ACP II and placed in the pay scale of 4500-125-7000. The contention of the applicants is that they should be placed in the pre-revised scales of pay of Rs.4500-125-7000 and Rs.5000-150-8000 on grant of ACP I and II respectively.

3. It is submitted that similarly placed persons filed OA 424/2000 and OA 525/08 for grant of pay scale at Rs.5000-150-8000 as recommended by the 5th Pay Commission report. This Tribunal by order dated 23.4.2001 and 25.8.09 respectively allowed the OAs, against which the department filed WPs 20349/01 and 13971/10. The Hon'ble High Court dismissed the WPs on 17.3.05 and 04.8.10 respectively, confirming the order of this Tribunal. The department implemented the orders and the applicants therein were extended the benefit. Since the applicants are also similarly placed persons, they are entitled for the same relief as claimed in the OA.

4. Earlier the applicants filed OA 1351/2013 which was disposed off on 24.9.2013 with a direction to the respondents to consider the representation of the applicants dt. 08.2.13 in accordance with law and as per rules and pass a reasoned and speaking order within a period of two months from the date of receipt of a copy of the order. Pursuant to the said order of this Tribunal, the respondents passed an impugned order dated 17.4.2014 rejecting the claim of the applicants. Aggrieved by the said action of the respondents, the applicants are before this court seeking the aforesaid relief.

5. The respondents have entered appearance and filed a detailed reply explaining their stand. They contend that the judgments referred in the OA are applicable to only those persons and applicants cannot claim it.

6. Heard both sides. At the hearing, learned counsel for the applicants filed a memo stating that the matter is covered by the orders of this Tribunal in OA Nos 424/2000, 525/08 and the judgments of the Hon'ble High Court in Wp Nos. 20349/01 and 13971/10, which is taken on record. The applicants would be satisfied if this OA is also disposed off in similar lines.

7. On a perusal of the reply, pleadings and judgments produced, we find that the facts of OA 525/08 and those stated in this OA are similar and the OA 525/08 was allowed holding that the applicants therein D.Ramachandran and R.Thyagarajan are eligible for the pay scale 4500-125-7000. The respondents had filed WP No.13971/2010 before the Hon'ble High Court of Madras against the order in OA 525/08 and the High Court has confirmed the decision of the Tribunal and dismissed the WP. The department had also implemented the same. In ***State of U.P. & Others***

v. Arvind Kumar Srivastava & Others [2015 (1) SCC 347] the Hon'ble Apex Court held that identically situated persons should be treated alike and not doing so would amount to discrimination and violative of Article 14 of the Constitution of India. Merely because similarly situated persons did not approach the court earlier should not be treated differently.

8. So, we are of the view that the benefits granted to the applicants in OA 525/08 has to be granted to the applicants in this OA also.

9. Hence, the OA is allowed. **The respondents are directed to consider the extension of grant of ACP-I in pay scale 4500-7000 with consequential benefits. This exercise will be completed within a period of three months from the date of receipt of a copy of this order. No costs.**

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

05.11.2019

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Annexures referred to by the applicants in OA No.310/01976/2017:

Annexure A1: Charge Memo issued to the applicant dt. 08.3.16.

Annexure A2: Explanation given by the applicant dt. 18.3.16.

Annexure A3: Charge Memo issued to the applicant dt. 26.7.16.

Annexure A4: Explanation given by the applicant dt. 08.8.16.

Annexure A5: Representation given by the applicant dt. 08.11.17.

Annexure A6: Charge Memo issued to the applicant dt. 22.11.17.

Annexure A7: Memo issued to the applicant dt. 19.4.07.

Annexure A8: Explanation given by the applicant dt. 23.4.07.

Annexures with reply statement:

Annexure R1: No.19/PCDWHP/2011-2002 dt. 28.3.07.

Annexure R2: No.77-2007/SP/VAC/Pet/2008 dt. 24.11.08.

Annexure R3: I.D.Note No.C/13013/18/2007-CVO dt. 01.12.15.

Annexure R4: No.C.13013/18/2001-CVO dt. 04.10.16.

Annexure R5: No.C.14012/1/2017/WCD/SW-1 dt. 05.12.17.

Annexure R6: No.726/DWCD/Estt/B2/2007-08 dt. 07.9.17.

Annexure R7: No.C13013/18/2007-CVO dt. 27.11.17.

Annexure R8: P.P.O.No.29170 dt. 20.12.17.

Annexure R9: No.DAT/GPF/FW/U.VI/2017-18/30 dt. 17.1.18.