

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 1861/2014
MA 1594/2014

Order reserved: 11.03.2015
Order pronounced on : 01.04.2015

Hon'ble Mr.G.George Paracken, Member (J)
Hon'ble Mr. P.K.Basu, Member (A)

1. Shri Ashok Kumar Yadav
Technician
Aged 46 years
S/o Shri P.L.Yadav
R/o F 360, Type 3, Nanakpura
Moti Bagh-II, New Delhi -110 021
2. Shri Ravi Gupta,
Technician
Aged 44 years
S/o Shri R.B.Gupta
R/o BU-54, Pitampura
Delhi 110 088
3. Shri Sunkara Venkata Ramana
Technician
Aged 44 years
S/o Shri Venkateshwrlu
R/o 3-11-41/A, Ramanthapuram
Hyderabad, AP 500 013
4. Shri Prem Chandra Dhyani
Technician
Aged 51 years
S/o Shri M.N.Dhyani
R/o K-6/12, Udyan Marg, Sector-2
Kalibari, New Delhi
5. Shri K.H.Umesh,
Technician
Aged 46 years
S/o Shri K.Hoovappa
R/o C3/3, Akashvani Staff Qtrs.
Urva Stores, Mangalore 575006

6. Shri Rajeev Joshi,
Sr. Technician
Aged 49 years
S/o Shri R.C.Joshi
R/o B-1/317, Aravali Apartments
Sector -34, Noida
UP 201301
7. Shri Ajay Kumar,
Sr. Technician
Aged 44 years
S/o Shri Mahipal Singh
R/o B-26, Maharana Pratap Enclave
Pitampura,
New Delhi 110 034
8. Shri Bhuban Patgiri
Sr. Technician
Aged 45 years
S/o Shri Uday Chandra patgiri
R/o House No.5, Surendra Rabha Path
Barpukahiri Per
Hengrabari
Guwahati
Assam 781036
9. Sr. Bhagwati Prasad
Sr. Technician
Aged 57 years
S/o Late Shri Y.Prasad
R/o D 797, Pocket 3, DDA Flats
Bindapur
New Delhi 1110 059
10. Shri Sanjay Aggarwal,
Sr. Technician
Aged 42 years
S/o Shri G.C.Aggarwal
R/o 125 Sant Nagar
New Delhi 110 065
11. Sh. Tejinder Kumar
Sr. Technician
Aged 48 years
S/o Late Shri S.P.Channan
R/o 390 Vipin Garden, Dwaraka Mor
New Delhi 110 059
12. Shri Rakesh Chander Dabas,
Sr. Technician
Aged 48 years
S/o Shir Ajit Singh
R/o House No.151
Village & Post Kanjhawala

Delhi -110 081

13. Shri Sunil Dutt
Sr. Technician
Aged 46 years
S/o Mehar Singh
R/o House No.79, Prehladpur
Delhi 110 042
14. Shri Vinod Joshi
Sr. Technician
Aged 48 years
S/o Shri P.D.Joshi
R/o ID-Pocket C, Mayur Vihar Phase-2
Delhi 110 091
15. Shri Kamleshwar
Sr. Technician
53 years
S/o Shri S.Singh
R/o House No.171 B, Pocket C
Janta Flats, Mayur Vihar Ph-III
Delhi 110 091
16. Shri Umesh Babu
Sr. Technician
Aged 51 years
S/o Shri Reghunath Prasad
R/o B-I-613 Dr. Ambedkar Nagar
Madangir
New Delhi 110 062
17. Shri Kulbhushan Bhatia
Engineering Assistant
Aged 50 years
S/o Shri Late S.K.Bhatia
R/o 12/3A, Double Storey
Moti Nagar
New Delhi 110 015
18. Shri Sanjay Acharjee
Engineering Assistant
Aged 45 years
S/o Shri Sudhansu Acharjee
R/o 3/33, Staff Quarters, All India Radio
Guwahati
Assam 781003.
19. Shri Vishnu Verma
Engineering Assistant
Aged 46 years
S/o Shri M.C.Verma
R/o B-10, Surajmal Vihar
Delhi 110 092

20 Shri Rajesh Kumar Sharma
Engineering Assistant
Aged 50 years
S/o Shri H.C.Sharma
R/o 205, Gali No.2, Pratap Vihar Part-2
Kirari
Delhi 110 086

21. Shri Anukul Chanda
Sr. Engineering Assistant
Aged 48 years
S/o late Shri Pramesh Chanda
R/o Staff Quarters No.C-28
Doordarshan Colony
VIP Road,
Barbari
Guwahati,
Assam 781036

... Applicants

(By Advocate: Shri Manish Kumar Bishnoi)

VERSUS

1. Union of India
Through the Secretary
Ministry of Information and Broadcasting
6th Floor, Shastri Bhawan
New Delhi 110 001

2. Prasar Bharti Broadcasting Corporation
Through its Chief Executive Officer
PTI Building,
Sansad Marg
New Delhi 110 001

3. Director General
Prasad Bharti
Broadcasting Corporation of India
All India Radio
Parliament Street
New Delhi

4. Director General
Doordarshan
Prasar Bharati
New Delhi

. Respondents.

(By Advocate: Ms. Ishita Barua for Mr. Gaurang Kanth)

ORDER

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

The applicant no. 1 to 5 are working as Technicians, 6 to 16 as Sr. Technicians, 17 to 20 as Engineering Assistants and 21 as Senior Engineer in Prasar Bharti. All these applicants are working as Technicians during the relevant period on 01.01.1996.

2. The Hon'ble Supreme Court vide judgment dated 28.08.1988 in Y.K.Mehta Vs. UOI 1988 (Supp) SCC 750 had directed the respondents to place Lighting Assistant in Doordarshan in the same pay scale as Assistant Cameraman in the Film Division. The order of the Hon'ble Court was implemented vide the order w.e.f. 01.12.1983. The complaint of the applicants is that though the Technician/Sr. Technician of All India Radio and Doordarshan had also pay parity with Lighting Assistant, their pay scale was not revised.

3. The Government appointed the National Productivity Council (NPC) to go into the matter and hold job evaluation for the two categories (Lighting Assistants and Technicians). It is stated that the said Committees report was in favour of the Technicians but the respondents did not issue any order. The Technicians/Sr. Technicians then approached this Tribunal before the Hyderabad Bench in OA No. 1192/1995 praying for directions to the respondents to place them in the pay scale of Rs.1400-2300 at par with the Lighting Assistants. The OA was disposed of with direction to the respondents to take a decision in the matter. However, despite representation the respondents did not take any action. The Technicians and Sr. Technicians then approached the Tribunal again in OA No.164/1996 with the same prayer.

4. On 05.12.1997, the respondent no.1, which supports All India Radio and Doordarshan, issued a Office Memorandum dated 05.12.1997 in terms of which Technician were placed in the pay scale of Rs.4000-6000/- w.e.f. 01.01.1996 and the pay was to be notionally calculated in the scale of pay Rs.4500-7000/- w.e.f. 01.11.1997. Similarly, the Sr. Technicians were placed in pay scale of Rs.4500-7000/- w.e.f. 01.01.1996 and the pay was to be notionally calculated in the scale of Rs.5000-8000/- w.e.f. 01.11.1997. However, the pay scale was not revised from 01.12.1983 with consequential benefits nor the benefits of notional pay fixation was extended to them w.e.f.01.12.1983 although the Lighting Assistant have been given the higher scale w.e.f.01.12.1983. According to the applicants, they have thus been discriminated against. In the meantime, the Tribunal dismissed the OA on the grounds of acquiescence and rejected the prayer for granting revision of pay scale with retrospective effect. This was challenged by the Technicians and Sr. Technicians in Writ Petition bearing no.3787/2000 before the Hon'ble High Court of Delhi. While this was pending before the Hon'ble High Court of Delhi, the Hon'ble High Court of Madras vide judgment order dated 24.11.2010 in WP (C) 27155/09 filed by another association of Technical Employees of AIR and DD held that the Technicians and Sr. Technicians are entitled to the benefits of notional pay w.e.f. 01.07.1983.

5. It is stated by the applicant that there was no prayer for arrears before the Hon'ble Madras High Court. In the meanwhile, the Hon'ble High Court of Delhi dismissed the Writ Petition No.3787/2000 vide order dated 08.07.2011 passing the following order :-

It was up to the Government to give them the said parity with effect from 01.01.1996 when the recommendations of the 5th Central pay Commission were implemented in the meantime. The Tribunal, in these circumstances, exercised its discretion of not interfering with the benefit given vide OM dated 05.12.1997 giving revised pay scales to the petitioners, at par with Lighting Assistants with effect from 01.01.1996.

6. The UOI filed a Special Writ Petition being SLP (C) No.33048/11 against the judgment of the Hon'ble High Court of Madras by which notional fixation of pay scale was granted. However, it is stated that the SLP by the Technicians/Sr. Technicians against the order dated 08.07.2011 passed by Hon'ble Delhi High Court was not tagged with this case and SLP against order of the Hon'ble Delhi High Court was separately heard and dismissed. Review Petition was filed by Technicians and Sr. Technicians before the Hon'ble Supreme Court to hear both the matters together. However, in this Review Petition, they prayed for notional fixation of pay scale at par with Lighting Assistants on the ground that the cadres are at par. On 10.01.2013 the Hon'ble Supreme Court dismissed the SLP No.33048/2011 filed by the UOI against the decision of the Madras High Court. The Hon'ble Supreme Court ordered as follows :-

Shri Rajiv Sharma, learned counsel for the petitioner argued that the High Court committed grave error by ordering notional revision of the pay scale of the Technicians at par with Lighting Assistants ignoring that the two cadres are distinct and separate and there is no similarity in the duties of the Technicians on the one hand and the Lighting Assistants on the other. However, he could not draw our attention to any tangible evidence to substantiate this statement. Learned counsel also failed to explain the rationale of denial of parity in the matter of pay scales to the Technicians working in All India Radio and Doordarshan vis-à-vis Lighting Assistants Grade-II and Grade-I despite the fact that they were paid salary in the identical pay scale till 1.7.1983 and that parity was restored after a gap of about 13 years with effect from 01.01.1996. In the absence of any cogent explanation for differentiating the two cadres in the matter of revision of pay scales, it is not possible to find any fault with the direction given by the Division Bench of the High Court. Rather, it must be held that by ordering revision of pay scales of the Technicians at par with the Lighting Assistants, the High Court has acted in consonance with the spirit of Articles 14 and 16 of the Constitution.

With the above observations, the special leave petition is dismissed.

7. Thereafter, in the Review Petition the Hon'ble Supreme Court on 02.09.2013 restored the SLP and passed the following order :-

The respondents are directed to give relief to the members of appellant No.1 and other appellants as also other similarly situated persons in terms of order dated 10.01.2013 passed by this Court in SLP (C) No.33048/2011 approving the direction given by the Madras High Court. The needful must be done by the respondents within a period of three months from today.

8. However, the respondents have vide order dated 19.04.2012 in compliance of judgment of Hon'ble High Court of Delhi in WP (C) No.6544/2007, which was the case filed by the Lighting Assistants, granted them the pay scale of Rs.50008000/- from 01.01.1996 which has been approved by the Ministry of Information and Broadcasting and Department of Expenditure, Ministry of Finance.

9. The applicants, therefore raised demand that their pay scales should be hiked to Rs.5000-8000 keeping in view the judgment of the High Court of Madras and Hon'ble Supreme Court as cited earlier. It is stated that this matter was examined between respondent no.1, 2 & 3 but no order was issued and the benefits of higher pay scale Rs.5000-8000/- to the applicant w.e.f. 01.01.1996 given to the 31 Lighting Assistants on the principle of parity has not been approved. The applicants have, therefore, made the following prayer before us:-

Direct the respondents to immediately and forthwith grant the benefits of higher pay scale of Rs.5000/- to 8000/- with effect from 01.01.1996 to the Petitioners in the same manner as has been granted to the 31 Lighting Assistants by following the dictum laid

down by the Hon'ble Supreme Court in judgment dated 10.01.2013 in SLP (C) No.33048/2011 and further grant all other consequential benefits, including arrears of pay and allowances ;and

10. The only argument made by the learned counsel for the respondents is that the applicants who were the Lighting Assistants before the Hon'ble High Court in WPC 6544/2007 have been granted the scale and since the applicants in this OA were not applicants in that particular Writ Petition, they do not have a claim to the said pay scale.

11. Heard both the counsel and perused the various orders of the Hon'ble High Court and the Honble Supreme Court.

12. It is clear that matter has been settled at the level of the Hon'ble Supreme Court that Technicians and Sr. Technicians be treated at par with Lighting Assistants as far as their pay scales are concerned. Once this matter is settled, in our opinion, whether or not the applicants were or were not before the Hon'ble High Court in Writ Petition No.6544/2007 is not relevant. The Hon'ble High Court had enhanced the scale of Lighting Assistant to Rs.5000/- to 8000/- and, therefore, following the judgment of the Hon'ble Supreme Court and Madras High Court this scale of Rs.5000-8000 cannot be denied to Technicians/Sr. Technicians. The OA is, therefore, allowed and the respondents are directed to grant the benefits of higher scale of Rs.5000-8000/- w.e.f. 01.01.1996 on notional basis to the applicants.

(P.K.Basu)
Member (A)

(G.George Paracken)
Member (A)

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