

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **WP(C) No.5797/2008**

% Reserved on: 11th August, 2008
Date of Decision: 23rd January, 2009

Ramesh Chander
Electrician (Hqrs.) (TPOM Division) CIET,
NCERT,
Aurobindo Marg,
New Delhi-110016

...Petitioner
Through : Mr. O.N. Sharma, Adv.

Versus

The Secretary
NCERT,
Aurobindo Marg,
New Delhi-110016

...Respondent
Through : Mr. R.K. Singh, Adv.

CORAM :-

THE HON'BLE MR.JUSTICE MADAN B. LOKUR
THE HON'BLE MR. JUSTICE J.R. MIDHA

1. Whether Reporters of Local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Yes

Yes

Yes.

J.R. MIDHA, J.

1. The Petitioner has assailed the order dated 3rd June, 2008 passed by the learned Central Administrative Tribunal whereby the Tribunal has dismissed the O.A. No.1122/2008 filed by the Petitioner with regard to re-fixation of his pay scale from Rs.1150-1500/- to Rs.4000-6000/-.

Signature Not Verified

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Certify that the digital file and
physical file have been compared and
the digital data is as per the physical
file and no page is missing.

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2. The Petitioner was initially appointed as Khalasi with the respondent with effect from 18th December, 1979 vide office order dated 19th December, 1979. Thereafter, he was appointed to the post of LDC on ad-hoc basis vide office order dated 21st December, 1984 and was relieved from service vide order dated 14th January, 1985. However, he continued to work on ad-hoc basis for some time as LDC for short temporary periods and was finally appointed as Electrician on regular basis in the pay scale of Rs.1150-25-1500/- vide order dated 29th April, 1992. The relevant portion of the appointment letter is reproduced hereinbelow:-

"The council is pleased to appoint Shri Ramesh Chander, Khalasi, CIET as Electrician in the pay scale of Rs.1150-25-1500/- in the CIET from the date he assumes the charge in a temporary capacity on regular basis."

3. On 23rd December, 1997, the respondent issued a notification for the revision of pay scales on the basis of recommendations of the Vth Central Pay Commission. In the said notification, the Respondent notified the revised scales of the employees with effect from 1st January, 1996 as per details given in the statement enclosed. The entries at Sl. No.22 and 98 are relevant in the present context and are reproduced hereinbelow:-

Sl. No.	Posts/Designation	Existing Scale of pay (Rs.)	Proposed revised scale of pay as approved by the Govt. on the recommendations of the Fifth Pay Commission
22.	Electrician	Rs.950-1500	3050-75-3950-80-4590
98.	Electrician (Hqrs.)	Rs.1320-2040	4000-100-6000

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4. The Petitioner was working in the post of Electrician with the Respondent and was governed by Entry No.22 mentioned above and was, therefore, entitled to the revised pay scale of Rs.3050-4590/-. However, by an internal note dated 13th February, 2002, the respondent wrongly fixed the pay scale of the Petitioner at Rs.4000-100-6000/- as applicable to Electrician (Hqrs.) in the pay scale of Rs.1320-2040/- (pre-revised). The Respondent corrected the mistake by a Corrigendum dated 16th September, 2002 in which it was clarified that the pay scale for the post of Electrician in the pay scale of Rs.1150-1500/- (pre-revised) shall be revised to Rs.3050-4590/- (revised) instead of Rs.1320-2040/- (pre-revised) and Rs.4000-6000/- (revised) with effect from 1st January, 1996.
5. The Petitioner made a representation to the Respondent for revising his pay scale from Rs.1150-1500/- to Rs.4000-6000/- which was rejected vide office memo dated 8th July, 2003.
6. The Petitioner challenged the office memo dated 8th July, 2003 before the learned Central Administrative Tribunal vide O.A. No.669/2007 which was allowed and the memo dated 8th July, 2003 was quashed and set aside by the learned Tribunal by an order dated 26th February, 2008 with a direction to pass a reasoned and speaking order.

7. On 2nd May, 2008, the Respondent passed a speaking order rejecting the representation for revision of pay scale of the Petitioner from Rs.1150-1500/- to Rs.4000-6000/-. The relevant portion of the office memo dated 2nd May, 2008 is reproduced hereinbelow:-

"After careful scrutiny and consideration of all the aspects of the case and on the basis of the materials available on record, the competent authority is of the opinion that Shri Ramesh Chander has based his entire claim for upward revision of his pay-scale to Rs.4000-6000/- on an error in the publication of the Council's Circular No.1-2/97-EC dated 23/12/1997, in which the pay scale of Electrician (Headquarters) was erroneously mentioned as Rs.1320-2040 (Pre-revised) and Rs.4000-6000 (revised).

Shri Ramesh Chander was initially appointed as Khalasi w.e.f. 18/12/79 and thereafter appointed to the post of LDC on ad-hoc basis vide office order dated 21/12/1984 and relieved w.e.f. 14/1/85(F/N). After having worked as LDC on adhoc basis he was finally appointed as Electrician on regular basis in the pay scale Rs.1150-1500, vide Council's Order No.9-4/92-E.III dated 29/4/1992 (F/N). As per the Council's Recruitment Rules, the pay scale applicable for the post of Electrician is Rs.1150-1500/-, and accordingly he was placed in the revised pay scale of Rs.3050-4590/-.

On the basis of the recommendation of the Vth Central Pay Commission, the Council had issued a notification No.1-2/97-EC dated 23/12/1997 for revision of pay scales, in which the pay scale of Electrician (Headquarters) was erroneously mentioned as Rs.1320-2040 (Pre-revised), instead of the above mentioned pay-scale of Rs.1150-1500/-, and Rs.3050-4590 (revised). Later on this error was rectified by the Council by issuing a Corrigendum vide Office Order No.F.1-2/97/EC dated 16/9/2002. Accordingly, his scale of pay will remain as Rs.1150-1500 (pre-revised) and Rs.3050-4590 (revised) w.e.f. 1/1/96.

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On his representation, his case was forwarded to the Grievance Redressal Committee, which examined his case in detail in its meeting held on 29/11/2002, and found that there is no discrimination in his pay scale. This had been communicated to him vide letter No.F.7-8/79/CIET/Pt.2 dated 8/7/2003. There is no one working in the post of Electrician either at NCERT HQrs. **OR** in any of the RIEs, who have been granted any such pay scale of Rs.1320-2040."

8. The Petitioner challenged the office memo dated 2nd May, 2008 before the learned Tribunal by O.A. No.1122/2008 which was dismissed vide order dated 3rd June, 2008 which is under challenge before us.

9. We do not find any merit in the writ petition. It is a matter of record that they are two separate posts of Electrician and Electrician (Hqrs.). The post of Electrician is a Group 'A' post in the pay scale of Rs.950-1500/- (pre-revised) which was revised to the pay scale of Rs.3050-4590/- on the recommendation of the Vth Central Pay Commission. The post of Electrician (Hqrs.) is a Group 'C' post in the pay scale of Rs.1320-2040/- (pre-revised) which was revised to Rs.4000-6000/- on the recommendation of the Vth Central Pay Commission. It is matter of record that the Petitioner was appointed to the post of Electrician vide appointment letter dated 29th April, 1992 in the pay scale of Rs.1150-1500/- and, therefore, his pay scale has been rightly revised to Rs.3050-4590/- in terms of the notification dated 23rd December, 1997 and there is no infirmity in the fixation of the said pay scale.

10. The contention of the Petitioner is that he was holding the post of Electrician (Hqrs.) and, therefore, he is governed by Entry at Sl. No.98 and, therefore, his pay scale should be revised to Rs.4000-6000/-.

11. The Petitioner's submission fails on the ground that there is no material whatsoever on record to show that the Petitioner is Electrician (Hqrs.). On the contrary, the appointment letter dated 29th April, 1992 contradicts the Petitioner as it is clearly recorded that he has been appointed to the post of Electrician.

12. We note that the Petitioner was working on the pay scale of Rs.1150-1500/- (pre-revised) which is the pay scale of an Electrician. If the Petitioner had been working as Electrician (Hqrs.), he would have been getting Rs.1320-2040/- (pre-revised) which is not the case.

13. We also note that the Respondent has made a categorical statement in the counter affidavit before the learned Tribunal that there is no post of Electrician (Hqrs.) in the respondent's office.

14. The notification dated 23rd December, 1997 has revised the pay scales and not the posts. Therefore, irrespective of the designation/post held by the Petitioner, pay scale of Rs.1150-1500/- corresponds to Entry at Sl.No.22 of the

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notification dated 23rd December, 1997 and, therefore, his revised pay scale is Rs.3050-4590/-.

15. For all the aforesaid reasons, we hold that the Respondent has correctly fixed the pay scale of the Petitioner at Rs.3050-4590/- vide Corrigendum dated 16th September, 2002. We agree with the reasons recorded by the Respondent in the office memo dated 2nd May, 2002 whereby the Petitioner's representation was rejected.

16. We also agree with the reasons recorded by the learned Tribunal in the impugned order dated 3rd June, 2002 whereby the Petitioner's O.A. has been dismissed.

17. In view of the above, we do not find any merit or substance in the writ petition. We, therefore, dismiss the writ petition.


(J.R. MIDHA)
JUDGE


(MADAN B. LOKUR)
JUDGE

January 23rd, 2009
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