

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Writ Petition No.1138 of 2019

Date of decision: January 17, 2019

Union of India and others

...Petitioners

Versus

Parkash Chand Sharma and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr. Pawan Kumar Longia, Advocate
for the petitioners.

HARINDER SINGH SIDHU, J.

The Union of India and others filed the said writ petition for quashing the order of the Central Administrative Tribunal dated 22.10.2010 whereby O.A. No.297/CH/2009 filed by respondents No.1 to 13 was allowed. They have also impugned the order dated 10.02.2017 whereby its review application was dismissed.

Respondents No.1 to 13 are Civilian Switch Board Operators (CSBOs) working in the Western Command Signal Regiment in the Ministry of Defence. Their case was that consequent to the judgment of the Central Administrative Tribunal, Chandigarh Bench in OA No.450/HR/2002, titled "Balraj Singh and others vs. Union of India and others" which was upheld by this Court and Hon'ble the Supreme Court the petitioner herein issued orders dated 27.02.2004 granting them the following three pay scales of Telephone Operator as prevalent in the Telecom Department to CSBOs w.e.f. 01.01.1996 :-

- “(a) CSBO Grade II Rs. 3200-4900
(b) CSBO Grade I Rs.5000-8000
(c) Tele/SB Supervisor Rs.5500-9000
(d) After completion of 16 years of service Rs.5000-8000
(e) After completion of 26 years of service Rs.5500-9000”

With the introduction of new pay scale for CSBOs, the Government withdrew the benefit of ACP scheme introduced w.e.f. 09.08.1999. They were however made entitled to the benefit of Time Bound Promotion (TBP) Scheme on completion of 16 and 26 years of service as envisaged in the order dated 13.09.2002. Subsequently, the Ministry of Defence, New Delhi issued letter dated 06.09.2005, whereby the following note was inserted below the order dated 27.02.2004:-

“Note: The fixation of replacement scale of pay will be made under CCS RPR 1997. For effecting time bound promotion after 16 and 26 years of service, the posts of CSBO Grade II will stand upgraded to higher Gdes of CSBO Gde 1/Tele/Sb supervisor on personal basis. The overall strength of CSBO cadre under GS Branch common roster as authorized in Pes of the units will not increase.”

Accordingly the pay of private respondents (applicants in the OA) was fixed by the Principal Controller of Defence Account vide order dated 21.08.2006.... While they were drawing the pay so fixed, the Controller General Defence Accounts, New Delhi issued letter dated 13.03.2009 clarifying as under:-

“a) As per the provisions of Note under Para 1 of the GOI MoD letter dated 27.2.2004, issued vide Corrigendum dated 6.9.2005, the fixation of the replacement scale of pay will be

made under CS RPR 1997.

b) Accordingly, the individuals serving as on 1.1.1996 in the grade of CSBO-II would be brought in the revised scale of pay of Rs.3200-85-4900 under CCS RPR 1997. Similar, individual serving as on 1.1.1996 in the grade of CSBO-I would brought in the corresponding, revised scale o pay as per CCS (RP) Rules, 1997.

c) Fixation of pay scales of Rs. 5000-8000 and Rs.55000-9000 for the Time Bound Promotion (TBP) after completion of 16 years and 26 years respectively in the grade of CSBO-II would be made under the provision of FR-22.”

In view of the clarification, order dated 04.03.2009 was issued cancelling the pay fixation order dated 21.08.2006 and recovery of the excess payment was ordered to be made. Private respondents submitted representation dated 21.12.2007 but received no favourable response. Hence they filed Original Application for quashing orders dated 06.09.2005, 14.02.2009 and 26.03.2009.

The case of the petitioners herein before the Tribunal was that as per RPR 1997, the pay of the private respondents was required to be fixed with effect from 01.01.1996 in the pay scale of 3200-4900 and 5000 to 8000 respectively. The pay of the private respondents was initially wrongly fixed by the authorities. Their cases were re-examined and after due clarification, the pay was refixed.

Ld. Tribunal noticed that the private respondents and similarly situated CBSOs had filed OA No.450/HR/2002 claiming parity of pay scale with Telephone Operators working in the Telecom Department. This OA was allowed. Writ Petition filed there-against was dismissed. Even SLP

were dismissed. The order has thus attained finality and has been implemented by the department vide order dated 27.02.2004 and 21.08.2006. It was not open to the Department to recall the pay fixation order passed in implementation of a judicial pronouncement. Accordingly, the impugned order was quashed. The review application of the petitioner were also dismissed. The Tribunal also rejected the contention of the petitioners herein that the benefit was to be given w.e.f. 1.1.1999 and not w.e.f. 1.1.1996. The Ld. Tribunal noted that not only in the order passed in OA No.450/HR/2002 was the benefit to be granted w.e.f., 1.1.1996 but in the subsequent OA No.890/HP/2011 decided on 03.02.2012 also the benefit of the relevant pay scale was allowed w.e.f., 1.1.1996. The said order had also attained finality. Thus the review application was dismissed.

There is no infirmity in the aforesaid orders passed by the learned Tribunal, which are in consonance with the earlier orders of the Tribunal which have attained finality.

Accordingly, this petition is dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

January 17, 2019

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No