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Court : Delhi

Decided On : Apr-17-2002

Reported in : 2002VIIAD(Delhi)136; 98(2002)DLT213; 2002(63)DRJ649

Judge : Vijender Jain, J.

**Acts : JTO Recruitment Rules, 1990; JTO Recruitment (Amendment) Rules, 1999;
[Constitution of India](#) - Articles 14 and 16**

Appeal No. : C.W. 4606/2000

Appellant : Sh. Thakur Singh and ors.

Respondent : Union of India (Uoi) and ors.

Advocate for Def. : Barkha Babbar and ; Ravi Sikri, Advs.

Advocate for Pet/Ap. : Rani Chhabra, Adv

Disposition : Petition allowed

Judgement :

Vijender Jain, J.

1. Rule.

2. This writ petition can be disposed of at this stage in view of additional affidavit filed by respondent.

3. This petition has been filed by the petitioners aggrieved by the action of the respondent in granting compensation of an amount of Rs.3000/- p.m. with effect from 1.4.99 to Group A & B Officers working in Mahanagar Telephone Nigam Ltd (for short 'MTNL') and denying the same benefits to the petitioners who were recruited by the same authority, placed on the same scales under the common Gradation List. It is contended by the counsel for the petitioners that petitioners are amenable to the same assessing authority and same Departmental Promotion Committee which considers the petitioners for promotion on the basis of seniority-cum-fitness as has been done in the case of officials of Group A & B working in MTNL.

4. The petitioners are working as Junior Telecom Officers in Northern Telecom Region (in short 'NTR') and Northern Telecom Project (in short 'NTP'). The case of the petitioner is that after completion of training the petitioners were appointed as Assistant Superintendent Telegraph (Traffic) in Delhi Telephones. Some of the petitioners had completed their training in the year 1991 and they were promoted to the post of Assistant Superintendent Telegraph (Traffic) (in short 'ASTT') Group C and were posted under Central Telegraph Office on 7.4.91 and one of them was also posted in MTNL as JTO.

5. On 5.4.94, the Government of India Ministry of Communication merged the cadre of ASTT with Junior Telecom Officers and after the said merger all the petitioners became Junior Telecom Officers and their Gradation List was recanted and they were given their Junior Telecom Officers number by Department of Telecommunications and were put on the common Gradation List and Seniority List of the JTOs appointed through direct recruitment and at random they were placed by the Department of Telecommunications in MTNL, Northern Telecom Region and Northern Telecom Project. After becoming Junior Telecom Officers all the JTOS are covered under the JTOs Recruitment Rules, 1990, which were repealed in the year 1996 and thereafter these rules were substituted by further new JTO Recruitment Rules, 1999 which are in force at present.

6. It was also contended before me that JTOs who have been posted in the Unit of Northern Telecom Region are placed under the same scales and common gradation list with those JTOs who were posted in MTNL. The next promotional avenue of the petitioners is TES Grade B.

7. From the above facts it has been contended by the counsel for the petitioners that even though Junior Telecom Officers are posted in different units of Delhi Circles but they are part of the same circle, posted on the same scale, discharging same kind of duties and deserves to be treated equally in the matter of their emoluments and promotions.

8. The controversy arose when MTNL issued a letter dated 5.6.2000 and decided to pay a compensation of Rs.3000/- to the officers of Group A and B working under MTNL. The said compensation was to be payable w.e.f. 1.4.99.

9. The case of the petitioners is that the said compensation amount was allowed not for any extra service rendered by the officers in MTNL but it is an additional amount/allowance given to them on their being posted in MTNL.

10. It is contended before me by the counsel for the petitioners that by giving different emoluments to the JTOs working in MTNL by the MTNL and not giving the same to the petitioner by respondent/UOI the respondent is flouting the principle of 'equal pay for equal work' and thereby offending the fundamental rights guaranteed under Article 14 & 16 of the [Constitution of India](#).

11. On the other hand counsel for respondent/UOI has contended that it was MTNL Board which had decided to give Rs.3000/- p.m. extra amount to the JTOs and the same is not binding on the Bharat Sanchar Nigam Limited (for short 'BSNL') which is the authority under whom petitioners are working since 1.10.2000. It is further contended by the counsel for respondent No.1 that on 14.1.2002, BSNL Head Quarters called for options from all serving Group B Officers who were transferred to BSNL as well as MTNL w.e.f. 1.10.2000 as well as from those who were on rolls of DOT/DTS/DTO/MTNL, as on 30.9.2000 requesting them to exercise their option for absorption in MTNL or BSNL. It is contended by Ms. Babbar that IDA pay scale will be effective from 1.10.2000 after

fixation of the pay of the absorbed employees in IDA pay scale, and they will be paid arrears.

12. However, in the additional affidavit filed by respondent No. 1, it has been stated that once the absorption is finalized by BSNL and till the JTOs are fitted in the IDA pay scale such officials will be paid an ad hoc sum of Rs.2000/- per month by BSNL and this will be an advance payment against the arrears receivables by them on their fitment in the IDA pay scales. This advance payment will be adjusted from their IDA emoluments, perks and benefits on fixation of their pay in IDA scales.

13. On the basis of these arguments counsel for respondent No.1 has tried to legitimise non payment of compensation amount of Rs.3000/- to the JTO working in Northern Telecom Region and Northern Telecom Project. An additional affidavit filed by one Mr. Teja Singh Jaswal working as Assistant General Manager makes a very interesting reading (which is at page 98 of the paper book). It is not denied in the said additional affidavit that recruitment rules, service conditions, promotions avenues as well as disciplinary authority are same for all Junior Telecom Officers working in MTNL, NTR, NTP in Delhi Circle. In the same way it is also admitted in the additional affidavit that Junior Telecom Officers working in MTNL, NTR, NTP are Government employees on deemed deputation to BSNL/MTNL without any deputation allowance. In view of categorical statement made by the respondent that there is no difference between the JTOs who are working in MTNL or BSNL and their recruitment rules, service conditions, promotional avenues as well as disciplinary authority being the same, then how the petitioners can be denied same benefits which their counter parts are getting from MTNL. One could have appreciated if the petitioners pursuant to their voluntary absorption have gone to BSNL. It is also admitted in the additional affidavit that Government at random picked up certain JTOs and placed them at the disposal of MTNL and BSNL. The petitioners had no option but to comply with the directions of the respondent and if the respondent has compelled the petitioners to work in one particular department, the respondent cannot shy away from its obligation to pay the same emoluments as has been paid to their counter parts in MTNL.

14. Ms. Babbar has tried to canvass that compensation of Rs.3000/- per month paid by the MTNL to the JTOs is subject to adjustment after the arrears of pay on the basis of IDA is given to the JTOs. Nothing stops the respondent from giving the same benefit to the petitioners as has been given by the MTNL. therefore, I do not see any merit in non grant of similar pay to the petitioners as has been given to the JTOs working in MTNL by the respondent. Non grant of similar pay for similar work offends Article 14 & 16 of the [Constitution of India](#) as the petitioners are Government servants holding same positions, possessing same qualifications an doing the same kind of work as is being done by JTOs in MTNL but not getting the same emoluments so the action is discriminatory and vocative under Article 14 & 16 of constitution of India.

15. In the circumstance a direction is issued to respondent to extend same benefits to the petitioners which have been granted to the JTOs working in MTNL within eight weeks.

16. Respondent No.1 is at liberty to extend the benefits to the petitioners in similar pattern as has been done by MTNL is relation to JTOs working with MTNL.

17. Rule is made absolute.

18. Writ petition stands allowed.

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