

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. 476/1999

New Delhi - this the 13<sup>th</sup> day of Nov. 2000

Hon'ble Mr. Justice V Rajagopala Reddy, VC(J)  
Hon'ble Shri Govindan S. Tampi, Member (A)

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In the matter of:

1. Mr. Ashok Kumar  
S/O Shri Nathu Lal,  
W-12, Sector-12, NOIDA
2. Mr. Inder Dhawan,  
S/o Shri Satyanam,  
F-64 C/4, House No. 73, Sector-40  
Noida
3. Daya Singh  
S/o Shri Dalip Singh  
C-4/3A, Arjun Mohalla,  
Gali No. 7, Mauzpur, Delhi
4. Mr. Rattan Singh  
S/o Shri Deshraj Singh,  
House No. 8, Type-II  
Sector -39 NOIDA
5. Mr. Gaje Singh,  
S/o Shri Parma,  
C/o Ashok Kumar,  
W-12, Sector 12, NOIDA .....Applicants  
(By Advocate: Sh. A.K.Sharma)

Vs

1. Union of India through  
Through its Secretary,  
Ministry of Communications,  
Sanchar Bhawan, New Delhi.
2. The Chief General Manager, Telecom  
UP Circle Lucknow.
3. Chief General Manager, Telecom,  
UP Western Telecom Circle,  
Windlass Shopping Complex,  
Dehradun
4. General Manager Telecom  
Gaziabad Telecom District  
Jaina Tower, Raj Nagar,  
Ghaziabad. ....Respondents  
(By Advocate: Sh. K.R.Sachdeva)

O R D E R

Sh. Govindan S. Tampi, Member (A)

Re-fixation of seniority in terms of the the  
recruitment rules relating to the cadre of phone  
mechanics as well as grant of benefits as being given

to the juniors are the reliefs sought by the applicant in this O.A.

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2. Sh. Ashok Kumar and 4 others, the applicants are linesmen working with the respondent; the applicants 1 and 2 having been directly appointed as Linesmen in 1971 and 1986 respectively while the applicants 3,4 and 5 having originally joined as regular mazdoor and subsequently promoted as Linesmen in 1991 and 1992. In the Department of Telecom. the first appointment is of casual labour and thereafter to regular mazdoor and thence to linesmen and wiremen to Sub Inspector after (16 years of service) and to Line Inspector (after 26 years of service). In 1990 a separate cadre of phone mechanics was created for which recruitment rules were circulated on 22.7.91 but this was not received by the applicants. In terms of the rules, 50% of the vacancies were to be filled from linesmen/wiremen on seniority cum fitness basis provided they had 10 standard qualification. This was circulated on 27.3.92. The respondents, had without maintaining cadrewise and gradewise seniority, amalgamated eight cadres into one though they should have maintained the list of seniority of linemen and wiremen separately. All the applicants, though were fully eligible could not apply for the post of phone mechanics as they did not know about the circular, till May 1995 when their juniors were promoted as phone mechanics and were granted the benefits from 1.1.94 itself. The representations by the applicants resulted in their also getting promotions as phone mechanics, but from 31.3.1997. They filed

representations individually and through their association against the delay in their getting the benefits on 15.8.97, 18.11.97, 15.12.97, 24.12.97 and finally on 7.12.98. Nothing has been done by the respondents to deal with the representations. They also state that persons similarly circumstanced as themselves and working in Faridabad had been given benefits which had been denied to them. Hence this application.

3. In the reply filed on behalf of respondent 1,3 and 4 it is indicated that the promotion in the grade of phone mechanics is from linesmen/wiremen having 10 standard qualification on the basis of seniority cum fitness and options given by the individuals. On the basis of the option received from the applicant 1 he was directed to appear for training on two occasion i.e. 14.2.94 and on 16.1.95 but had declined to do so. The other 4 applicants had not filed their options. All of them represented during 1996 when they were advised to appear to the training and on completion of the training they were promoted as phone mechanics since 21.3.97. As they had opted for the posts during the October 1996 and offered themselves for the training they have perforce to be junior to those who were selected during 1994 itself. The respondents also state that the circular calling for the options were circulated to all the offices but as the applicants had not filed their options they could not be selected earlier. They cannot therefore have any claim vis-a-viz who exercised the option, offered themselves for the training and accordingly

appointed earlier. The applicants' plea that they have been denied their due is incorrect. Respondents also point out that the matter had also been discussed in the committee constituted for considering the restructure of the cadre. Their action therefore is correct, plead the respondents. In the rejoinder the applicants reiterate their pleas and state that applicant No.1 had not refused training but could not attend the training as he was not well.

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5. Heard the counsel of the applicants and respondents. Shri Ashok Sharma learned counsel for the applicants, reiterated his pleas and argued that his clients had been dealt with in an unjustified manner as the circular with regard to the creation of the posts of phone mechanics was not originally communicated to them and that despite their being qualified their cases were not considered in time. While their juniors were promoted and regularised earlier, much to their detriment. Only on their representations their cases were considered and promoted. This was harsh and iniquitous and deserve to be set aside, argues Sh. Sharma. On the other hand, Sh K R Sachdeva learned counsel for the respondents produced the proceedings of the department which showed that the relevant circular has been duly communicated to all the offices and that all those eligible persons who had given their options for restructuring were considered, called for training and thereafter promoted. The applicants came to the scene on a much later date and were accordingly detailed for the training on a subsequent date and then promoted.

They cannot therefore, claim the seniority against those who were promoted earlier. More so the applicant No.1, who had declined training, twice in 1994 & 1995. The applications should therefore fail, urges the counsel for the respondents. regularised earlier.

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6. We have carefully considered the matter. The applicants state that they have been wrongly placed below their original juniors in the appointment as phone mechanic, which they should have got earlier as of right. They would have appeared for the selection and or the training had they been aware of the circular, communicating the information about the posts. We are not convinced. Even if, it is likely that there would have been some delay in the distribution of circular there is no reason to believe that all applicants were totally unaware of the case. in fact the respondents have shown that the relevant circular was duly forwarded to all the offices. In fact the applicant No.1, was called for training, not once but twice, but had declined the same on both occasions i.e in 1994 & 1995. That being the case department could not have promoted him in 1994 or 1995 as phone mechanic, because he had not undergone the training. He alongwith other applicants came up in representation subsequently and were deputed for training and thereafter appointed in March 1997. As the training was a condition precedent to their being promoted as phone mechanic, their promotions could have come only after that of those who opted for underwent training and got postings earlier i.e. in 1994 itself. The department's action therefore to

give the benefit of seniority to those who offered themselves for training and got posted earlier in 1994, even if they were originally juniors to the applicants cannot be called in question. The applicants have not made out any case for our interference.

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7. The application is therefore, devoid any merit and accordingly is dismissed. We also order them to pay cost of Rs.2,000/- towards the cost which shall be given to the CAT Bar Association for the purpose of its library.

(GOVINDA S. TAMPI)  
MEMBER (A)

/ksp/

(V. RAJAGOPALA REDDY)  
VC (J)