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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-627/99

New Delhi this the 1st day of November, 2000.

Hon'ble Sh. S.R. Adige, Vice-Chairman(A)
Hon'ble Dr. A. Vedavalli, Member(J)

Sh. Avinash Chander Magon,
E-92, South Moti Bagh,
New Delhi. Applicant

(through Sh. B.K. Aggarwal, Advocate)

Versus

1. Union of India through
Chief General Manager,
Northern Telecom Region,
Kidwai Bhawan,
New Delhi.
2. Chief General Manager,
MTNL, Khurshid Lal Bhawan,
Janpath, New Delhi. Respondents

(through Ms. Gitanjali Goyal, Advocate)

ORDER (ORAL)

Hon'ble Sh. S.R. Adige, Vice-Chairman(A)

Applicant impugns respondents order dated
22.10.97 (Annexure A-1) denying him arrears for the period
of promotion, and claims those arrears as if there were no
disciplinary proceedings against him.

2. We have heard the learned counsel for both
the sides.

3. Respondents contend that this O.A. is hit by
constructive resjudicata in the light of OA-1031/96 filed
by applicant earlier which was disposed of on 19.12.96.

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They also contend that as applicant did not work against promoted post, he is not entitled to the pay for the same in the light of the Hon'ble Supreme Court ruling in Palluru Ramkrishnaiah & Ors. Vs. UOI & Ors. (JT 1989(1) SC 595).

4. In so far as the question of the O.A. being hit by constructive resjudicata is concerned, we find that OA-1031/96 was in regard to the payment of arrears for the period the applicant was placed under suspension, and has nothing to do with the orders subsequently passed by respondents on 22.10.97, which are now impugned. Hence this contention of respondents is rejected.

5. In so far as respondents contention that applicant did not actually worked on the promoted post and hence he is not entitled to the pay for the same, is concerned, the Hon'ble Supreme Court in U.O.I. Vs. K.V. Janki Raman (AIR 1991 SC 201) has laid down that, where a Government employee has been fully exonerated in a departmental proceeding, he has to be given the benefit of the salary of the higher post from the date from which he would normally have been promoted, but for the departmental proceeding.

6. In the light of the aforesaid ruling of the Hon'ble Supreme Court, the contention of the respondents that the applicant is not entitled to the pay of the promoted post is also rejected.

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7. The O.A. is, therefore, succeeds and is allowed. The impugned order dated 22.10.97, to the extent that it denies applicant the arrears of pay of the promoted post is quashed and set aside. Respondents are directed to calculate and pay the arrears to applicant within a period of two months from the date of receipt of a copy of this order.

No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member(J)

S.R. Adige

(S.R. Adige)
Vice-Chairman(A)

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