

10

Central Administrative Tribunal  
Principal Bench

O.A. 1956/98

New Delhi this the 30th day of November, 1999

Hon'ble Shri S.R. Adige, Vice Chairman (A).  
Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Mahesh Kukreti,  
69, Akash Kunj,  
Plot-14, Sector-9,  
Rohini,  
Delhi-110085.

... Applicant.

By Advocate Shri G.K. Aggarwal.

Versus

1. Union of India through Secretary,  
Department of Telecommunications,  
Sanchar Bhawan, Ashok Road,  
New Delhi.

2. R.M. Tripathi,  
Junior Engr. (Civil),  
O/O Executive Engr. Telecom  
Civil Division,  
Bhopal House, Lal Bagh,  
Lucknow-226001 (UP).

... Respondents.

By Advocate Shri V.S.R. Krishna.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant is aggrieved by the seniority list issued by the respondents and prays that the same may be issued delinking the issue of confirmation and <sup>to be</sup> consider the date of regular appointment in the grade of Junior Engineer (Civil ) (for short "JE (Civil)") as the only factor relevant for fixation of seniority. He has also stated that he does not seek any particular position in any seniority list. Shri G.K. Aggarwal, learned counsel has submitted that the only issue raised in this case is with regard to the preparation of the All India Seniority List of JE (Civil) for promotion to the next higher grade.

js

11

(2)

2. The applicant was initially appointed as JE (Civil) on 25.7.1983 in the Mumbai Circle and at his own request he was transferred to the Delhi Circle where he joined on 29.6.1987. He has himself stated that because he was transferred to the Delhi Circle at his own request, his relative seniority among JEs(Civil) in the Delhi Circle has to be reckoned only from 29.6.1987. Shri G.K. Aggarwal, learned counsel, has submitted that regular promotions from JE(Civil) to Assistant Engineer (AE (Civil)) are made on an all India seniority basis and not on Circle-wise seniority basis. According to him, the applicant's position should be fixed on the basis of an All India eligibility list for promotion to the higher grade on the principle of seniority from the date of regular appointment in Bombay Circle <sup>B.</sup> ~~that~~ w.e.f. 25.7.1983.

3. The respondents in their reply have agreed with the above facts that the applicant had got himself transferred at his own request in terms of conditions laid down in Para.38 of the P&T Manual Vol. IV from Postal Civil Circle, Bombay to Telecom Civil Circle, New Delhi, in which he joined on 29.6.1987. They have submitted that in accordance with Para. 38 of the P&T Manual, a person who gets himself transferred from one Circle to another Circle at his own request is to remain as junior to all the persons in the new Circle of his posting irrespective of the date of his appointment. Hence, his relative seniority in the new Circle will be reckoned only from the date of his transfer in that Circle and not from the earlier date. They have also submitted that the next promotional post for the JE (Civil) is AE (Civil) which is on an All India basis. For this purpose, an All India Eligibility List of JEs (Civil) is prepared by the respondents taking into account the length of service of the officials,

B.

but without disturbing the inter-se Circle seniority positions of the JEs (Civil). Shri V.S.R. Krishna, learned counsel, has submitted that this has been the practice followed by the Department which is in accordance with the Rules. The All India eligibility list of JEs (Civil) which has been prepared by the Department, being in accordance with the Rules, is legal and correct. He has also submitted that the question of confirmation is not in issue here and the Department has followed their letter dated 15.7.1996 regarding preparation of the All India eligibility list of JEs (Civil) (Annexure-R4) taking also into account Para 38 of the P&T Manual. Learned counsel has, therefore, submitted that as the All India eligibility list has been prepared in accordance with the Rules, the applicant has no case and he has prayed that the O.A. may be dismissed.

4. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.


5. Admittedly, the applicant had got himself transferred from P&T Bombay Circle to the Delhi Circle and joined here on 29.6.1987. The respondents have relied upon the instructions contained in Para 38 of the P&T Manual, Vol. IV which, inter alia, provides that a person who gets himself transferred from one Circle to another Circle at his own request will be placed at the bottom of the seniority list and will remain ~~be~~ junior to all the persons in the new Circle of his posting irrespective of the date of his appointment. If the applicant's contention is accepted, then it would almost amount to the applicant having the cake and eating <sup>it</sup>, as he would have <sup>the</sup> posting of his choice from one Circle to another and will also at the same time maintain his seniority in accordance

18;

(4)

with his original date of appointment. If that is so, then Paragraph 38 of the P&T Manual which provides otherwise, namely, that he would be placed below the other officials in the new Circle he is transferred to will be rendered nugatory. The contention of the respondents that the All India eligibility list of JEs (Civil) for promotion to the post of AE (Civil) which has been prepared according to the length of service of the officials but without disturbing the inter-se seniority of JEs (Civil) and taking into account the position under Para 38 of the P&T Manual, cannot, therefore, be considered as either unreasonable or arbitrary. The date of confirmation which the applicant's counsel has prayed should not be taken into account, does not in any case figure in the preparation of the All India seniority list. Taking into account the facts and circumstances of the case, we are, therefore, unable to agree with the contentions of the applicant's counsel that the applicant's seniority should be taken into account only from the date of his initial regular appointment in the Mumbai circle, ignoring the date he joined in the Delhi circle at his own request<sup>as</sup> per the relevant Rule.

6. In the result, for the reasons given above, O.A. fails and is dismissed. No order as to costs.

  
(Smt. Lakshmi Swaminathan)  
Member(J)

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

'SRD'