

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1445/95
MA-1978/95

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[Bw Delhi this the 4th day of October, 1999.

Hon'ble Sh. A.V. Haridasan, Vice-Chairman(J)
Hon'ble Sh. S.P. Biswas, Member(A)

Sh. M.P. Saluja,
S/o Sh. G.R. Saluja,
C/o Sh. Sant Lal,
C-21(B) New Multan Nagar,
Delhi-56. Applicant

(through Sh. Sant Lal, advocate)

versus

1. Union of India through
the Secretary,
Ministry of Communications,
Deptt. of Telecom,
Sanchar Bhawan,
New Delhi-1.
2. The Chief General Manager,
Northern Telecom Region,
Kidwai Bhawan,
New Delhi-1.
3. The Chief Superintendent,
Central Telegraph Office,
New Delhi-1. Respondents

(through Sh. Madhav Panikar, advocate)

ORDER(ORAL)

Hon'ble Sh. A.V. Haridasan, Vice-Chairman(J)

MA-1978/95 has been filed for condoning the delay in filing the application. For the reasons given in the M.A. and affidavit and in the interest of justice the aforesaid M.A. is allowed.

2. The applicant who was Telegraphist appeared alongwith his juniors for an examination held in January 1990 for promotion to the post of Asstt. Supdt. Telegraph Traffic (ASTT for short). The

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applicant alleges that though he had secured the same marks as Sh.Sukhdev Singh who was placed at Serial No.15 in Annexure A-1 select list, his name was not included in the list of selected persons. Those who were included in the list of selected persons were sent to Regional Telecom Training and were promoted as ASTT w.e.f. 07.04.91. The applicant aggrieved by non-inclusion of his name in the list of selected candidates made a representation to Respondent No.2 . Ultimately on examination of his representation, the applicant was declared passed and he was sent for Regional Telecom Training. After Regional Telecom Training the applicant was promoted on ad hoc basis on 09.03.92 as ASTT and later on regular basis by order dated 27.07.92(Annexure A-7). The present grievance of the applicant is that while he was successful in the examination for no fault of his and solely by the reason of lapse on the part of the department, he was not sent for training in time and not promoted w.e.f. the date of promotion of his juniors with the result the applicant is suffering a loss in emoluments. Therefore, the applicant made a representation claiming that his pay should be brought at par with his juniors. In reply to this application, the applicant was told that in view of the instructions contained in the Government of India, Ministry of Home Affairs letter No. 4/97/92-Estt.(1) dated 04.11.94, the applicant's claim for stepping up of pay could not be acceded to as he had joined the post on a date later than the date on which his junior joined.

3. Being aggrieved, the applicant has filed this application for a direction to the respondent to issue orders deeming the applicant to have been promoted as ASTT w.e.f. 07.04.91 and to pay him consequential benefits of pay

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fixation, arrears of pay and allowances etc. w.e.f. 07.04.91.

4. The averments in the application that the applicant had secured the same mark as Serial No.15 in Annexure A-1 had obtained, that his name was not included in the select list and that on his representation the matter was reviewed and he was cleared for promotion etc. are not disputed.

5. The claim of the applicant for parity in pay and revision of date of appointment at par with his junior is resisted only on the ground that in terms of the O.M. referred to in the impugned order, as the applicant joined the promoted post on a date later than the date on which his junior joined, stepping up of pay cannot be allowed.

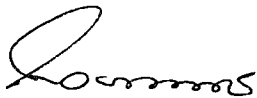
6. We have heard the learned counsel for both the parties.

7. Shri Sant Lal, learned counsel for the applicant produced for our perusal a copy of the seniority list of ASTTs in Delhi Circle as on 01.01.93 in which the applicant has been placed at Serial No.65 whereas the persons promoted by Annexure A-3 order pursuant to A-1 select list are all placed below him. It is evident from the above seniority list that though the applicant was promoted as ASTT only on 27.07.92, he has been given placement in the seniority list above those who were promoted w.e.f. 08.04.91 in Annexure A-3. The non-joining of the applicant on the post of ASTT w.e.f. 08.04.91 cannot at all be attributed for any act or omission on the part of the applicant and can be attributed only to the lapse on the part of the department in not properly processing the result of the examination held in January 1990. On account of the failure on the part of the respondents, the applicant should not be made to suffer either in seniority or monetarily. It is,

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therefore, necessary to revise the date of promotion of the applicant as ASTT w.e.f. the date on which the persons junior to him were promoted. Interest of justice also demands payment of arrears of pay and allowances and all consequential benefits.

8. In the result, for what is stated above, we allow this application and direct the respondents to antedate the promotion of the applicant as ASTT w.e.f. 07.04.91, to fix pay accordingly and to make available to him the monetary benefits flowing therefrom within a period of three months from the date of receipt of a copy of the order. No costs.



S.P. BISWAS
MEMBER(A)



A.V. HARIDASAN
VICE CHAIRMAN

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