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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH  
NEW DELHI.

O.A. No. 173 of 1995

New Delhi: dated this the 28 day of May, 1997.

HON'BLE MR.S.R.ADIGE MEMBER(A).

HON'BLE DR.A.VEDAVALLI MEMBER(J).

Shri Parma Nand Lal,  
A-7/2, Peshwa Road,  
Gole Market,

New Delhi ..... Applicant.

(Applicant in person)

Versus

Union of India through  
The Secretary & Chairman,  
Dept. of Telecommunications,  
Sanchar Bhawan,  
Ashok Road,  
New Delhi

2. The Chief General Manager ( NTR)  
2nd Floor, Kidwai Bhawan,  
Janpath,  
New Delhi.

3. Sh. H.C.Juneja,  
Chief Account Officer,  
DIO,  
Building 2nd Floor,  
Prasad Nagar,  
New Delhi ..... Respondents.

(By Advocate: Shri E.X.Joseph )

JUDGMENT

BY HON'BLE MR.S.R.ADIGE MEMBER(A).

Applicant impugns his pay slip for December, 1994 and prays that respondents be directed to pay him salary and allowances with further increments as other similarly placed Asstt. Engineers of 12.5.77 with arrears and interest thereon.

2. Applicant was appointed as a Junior Engineer ( then known as Engineering Supervisor) in N.E. Circle in 1968 and was confirmed and absorbed in TES Group C w.e.f. 18.12.68. From J.E., the next promotion post was that of A.E, recruitment to which was governed by the TES Group B Recruitment

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Rules, 1966. The method of recruitment to posts of A.E. was by promotion on the basis of selection from amongst J.Es who passed the departmental qualifying exam. Admittedly applicant passed the qualifying exam. in 1974. In 1981, a new set of rules governing promotion from J.E. to AE came into being whereby 2/3rd of vacancies were to be filled by those who came through the departmental qualifying exam., while the remaining 1/3rd were to be filled through selection on the basis of a departmental competitive exam. Upon being promoted as A.E. w.e.f. 18.4.79, applicant was placed at Serial No. 4741 in the seniority list. Thereafter applicant filed W.P. No. 2379/89 in Allahabad High Court praying for antedating of his seniority as A.E. with effect from the date his immediate junior had been promoted upon passing of the departmental exam. The prayer was allowed, and an SLP filed by UOI in Hon'ble Supreme Court against the Allahabad High Court's decision was dismissed. The Hon'ble Supreme Court held that seniority had to be fixed in accordance with Para 206 P & T Manual (Vol. -IV). As a result, applicant's position in seniority list went up from Sl. No. 4741 to Sl. No. 847, consequent to which he was given further promotion in Group A. Thereupon other persons, many of whom were senior to applicant as A.E. also moved the appropriate forum for the same relief as had been granted to applicant, and upon their claims being allowed, applicant's position in the seniority list of A.Es which had gone up from Sl. No. 4741 to Sl. No. 847, as a result of which he had been promoted to Group A posts,

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came down to Sl.No.4064, leading to his reversion to Group B early in 1993..

3. Applicant challenged his reversion to Group B in OA No.2646/93 which was dismissed by CAT PB vide judgment dated 11.4.97, and by which we as a Coordinate Bench are absolutely bound.

4. Respondents have pointed out in their reply that consequent to applicant's reversion from the post of AGM( R & E) to that of A.E. ( Tech.) on 23.3.93 he should have drawn the pay of an A.E., but inadvertently he continued to draw the pay of the higher post even after his reversion. As a matter of fact being an officer he should have himself pointed out the error, which came to notice when a complaint was received in Vigilance Branch. That error was corrected and the new (impunged) pay slip issued.

5. In this connection, during hearing of applicant's prayer for interim relief, the Tribunal in its order dated 27.4.95 had observed that consequent to the implementation of the reversion order on 22.3.93, applicant could have drawn salary in the pay scale only of Asstt. Engineer which was Rs.200-3500, as against the pay scale of AGM which was Rs.3000-4500. Accordingly the basic pay of Rs.3625/- which applicant continued to draw upto November, 1994 could be related to the post of AGM, and not to the post of AE and accordingly applicant's plea that his salary upto November, 1994 was in respect of the post of AE could not be accepted. In so far as applicant's contention that he was holding the post of Sr. AE when the reversion order

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was passed, was concerned, this contention was also rejected by the Tribunal in its order dated 27.4.95, as also applicant's contention that he has held the three posts of (i) Sr. A.E., (ii) AGM and (iii) A.E. Tech. III. Under the circumstances, the Tribunal categorically held in its order dated 27.5.95 that applicant was posted as AE Tech. III and it is on that post that he took charge through charge memo dated 23.3.93.

6. We also notice from respondents' reply that consequent to the COP filed by applicant in High Court/ Supreme Court which is sub-judice, applicant's pay has been stepped up to Rs.3200/- by provisionally adding personal pay of Rs.525/- of December, 1994 to his revised pay of Rs.2675/- for January, 1995 as if his deemed date of promotion as AE was retained as 12.5.77, without prejudice to their right to recover any excess payments after adjudication of the COP.

7. In the facts and conspectus of this case as noticed above therefore we hold that pending disposal of that COP it will not be legally in order for us to record any judicial finding in this matter at this stage. We accordingly dismiss the OA giving liberty to applicant that in case any cause of action survives after disposal of the COP it will be open to him to agitate the same in the manner prescribed by law, if so advised. No costs.

A Vedavalli  
( DR.A.VEDAVALLI )  
MEMBER(J)

Arif Ali  
( S.R. ADIGE )  
MEMBER(A).

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