

Central Administrative Tribunal
Principal Bench

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New Delhi, dated this the 11 - AUGUST, 2000

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. KULDIP SINGH, MEMBER (J)

O.A. No. 2484 of 1997

1. Shri Ghanshyam Dass,
S/o late Shri Madan Lal
Sr. Telegraph Master,
CTO, New Delhi.
2. Shri Shyam Lal Sachdeva,
S/o late Shri Narain Dass Sachdeva,
Sr. Telegraph Master,
CTO, New Delhi.
3. Shri Ramesh Chand Singhal,
S/o late Shri Birbal Dass
Sr. T.M.,
CTO, New Delhi. .. Applicants

(By Advocate: Shri Sant Lal)

Versus

1. Union of India through
the Secretary,
Ministry of Communication,
Dept. of Telecom,
Sanchar Bhawan, New Delhi.
2. The Chief General Manager, Telecom,
Northern Telecom Region,
Kidwai Bhawan,
New Delhi-110001.
3. The Chief Superintendent,
Central Telegraph Office,
Eastern Court,
New Delhi-110001. .. Respondents

(By Advocate: Shri R.P. Aggarwal)

O.A. No. 2099 of 1997

1. Shri Chhiddu Singh,
S/o Shri Roshan Lal,
RZ-60/5, Gali No.9,
Tughlakabad Extension,
New Delhi.
2. Shri Bharat Singh
S/o Shri Mukand Singh
3. Shri Balakrishan Sharma-I,
S/o Shri Amarchand Sharma
4. Shri Mohd. Hussain,
S/o Shri Salim Mohd.

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5. Shri V.P. Gupta,
S/o late Shri T.C. Gupta
6. Shri P.N. Bhatt,
S/o Shri Maya Dutt
7. Shri R.S. Rathore
S/o late Shri R.N. Singh
8. Shri M.S. Tomar
S/o late Shri Ram Singh
9. Shri Devraj Hassija,
S/o Shri Kishan Chand
10. Shri Mohinder Singh
S/o Shri Ram Singh
11. Shri Roshan Lal-II,
S/o Shri Sada Ram
12. Shri C.R. Sharma,
S/o Shri Bhula Ram
13. Shri A.C. Malhotra,
S/o late Shri S.R. Malhotra
14. Shri M.P. Sharma,
S/o late Shri G.C. Sharma
15. Shri Sribhagwan Bansal,
S/o Shri N.K. Bansal
16. Shri Raghbir Singh B.S.,
S/o Shri Bakhtwar Singh
17. Shri Ratan Lal
S/o late Shri Hira Lal
18. Shri M.L. Maggu
S/o Shri Guraditamal
19. Shri B.S. Patial
S/o Shri Jagat Ram
20. Shri Madan Puri,
S/o Shri Harish Ram
21. Shri Santokh Singh
S/o Shri S. Charan Singh
22. Shri Lajpat Rai
S/o Shri Gowardhan Das
23. Shri Mohanlal Nandwani,
S/o Shri Faquirchand
24. Shri Parvesh Kumar,
S/o Shri Sardarilal
25. Shri N.N. Apan,
S/o Shri Krishan Gopal

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26. Shri Tilak Raj-III,
S/o Shri Amar Nath
27. Shri S.P. Sethi,
S/o Shri H. Sethi
28. Shri Bharat Bhushan
S/o Shri Krishan Lal
29. Shri Udai Prakash Sharma
S/o Shri Ganeshilal
30. Shri C.M. Gupta
S/o late Shri K.R. Gupta
31. Shri Ramesh Chander Sharma
S/o Shri Pyarelal
32. Shri Attar Singh
S/o Shri Deepchand
33. Shri K.L. Sharma
S/o late Shri Kishan Narian
34. Shri K.C. Khatri
S/o Shri Kalu Ram
35. Shri Kishan Lal-I,
S/o Shri Khem Chand
36. Shri A.S. Bhullar
S/o Shri S. Bhag Singh
37. Shri Sunderlal Sawhani
S/o Shri Devidas
38. Shri R.M. Malhotra,
S/o Shri Raghunath Das
39. Mrs. Sudershan Gupta,
W/o Shri C.M. Gupta
40. Shri A.S. Mankoo
S/o Shri S. Kesar Singh
41. Shri Ishwar Chand-II,
S/o late Shri Khazana Ram
42. Shri Tek Chand
S/o Shri Visakhi Ram
43. Shri Suresh Chandra
S/o late Shri Bishambhar Dayal
44. Shri R.C. Wadhwa,
S/o late Shri Gain Chand
45. Shri Surender Kumar Ranot
S/o late Shri Ruldu Ram
46. Shri Nanakchand-III,
S/o Shri Gain Chand

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47. Shri S.P. Vahi,
S/o Shri Gain Chand

48. Shri Krishan Kumar-III,
S/o Shri Bakshi Ram

49. Shri Som Datt,
S/o Shri Chander Bhan

50. Shri P.P. Sharma
S/o Shri B.R. Sharma

51. Shri H.C. Grover,
S/o late Shri Dinanath Grover

52. Shri Chhedi Singh
S/o Shri Awad Narain Singh

53. Shri Yash Pal
S/o Shri Sanand

54. Shri Bakshish Ram
S/o Shri Dharam Singh

55. Shri Manjit Singh-II,
S/o Shri Avtar Singh

56. Shri G.J. Varandani,
S/o late Shri J.J. Varandani

57. Shri R.P. Nimara,
Shri M.L. Nimara

58. Shri C.P. Malik,
S/o Shri Jagannath Malik

59. Shri O.P. Gupta-II,
S/o Shri C.B. Gupta

60. Shri S.S. Hooda,
S/o Shri Bhalaran

61. Shri Jagdish Chander-II,
S/o Shri R.K. Sharma

62. Shri D.L. Gosain
S/o late Shri A.C. Gosain

63. Shri T.R. Bhalla
S/o Shri Topan Dass

64. Shri Kharatilal Miglani
S/o late Shri Ramanand

65. Shri D.D. Gupta,
S/o late Shri Gangaram

66. Shri Jai Gopal,
S/o late Sewa Ram

67. Shri Shamlal Midha
S/o late Shri Murlidhar

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68. Shri R.L. Sharma
S/o Shri Baboo Ramji

69. Shri H.R. Gupta
S/o Shri R.N. Gupta

70. Shri S.S. Verma
S/o Shri B.S. Verma

71. Shri R.K. Korotania,
S/o Shri Muashi Romy

72. Shri P.D. Taneja,
S/o late Shri Swarup Singh

73. Shri A.S. Malhotra
S/o Shri Jagjit Singh

74. Shri Satya Prakash,
S/o Shri Revti Sarain

75. Shri J.N. Bhola
S/o late Shri Vishan Dass

76. Shri A.N. Nohra
S/o Shri H.L. Nohra

77. Shri R.C. Jain-II,
S/o Shri N.C. Jain .. Applicants

(By Advocate: Shri K.B.S. Rajan)

Versus

1. Union of India through
the Secretary,
Dept. of Telecommunications,
Sanchar Bhawan, New Delhi.

2. The Chief General Manager,
N.T.R., Kidwai Bhawan,
New Delhi.

3. The Director, Telegraph Services,
N.T.R., Eastern Court,
New Delhi. .. Respondents

(By Advocate: Shri R.P. Aggarwal)

ORDERMR. S.R. ADIGE, VC (A)

As these two O.As involve common questions of law and fact they are being disposed of by this common order. For this purpose the material particulars in O.A. No. 2484/97 will be referred to.

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2. In O.A. No. 2484/97 applicants impugn respondents' Annexure A-1 Memo dated 11.4.97 and Annexure A-2 Memo dated 30.6.97. They seek promotion to Grade IV under Biennial Cadre Review Scheme (BCR Scheme) in the pay scale of Rs.2000-3200 (prerevised) as per criteria laid down in C.A.T. order dated 7.7.92 w.e.f. the date their juniors were so promoted with all consequential benefits.

3. In respondents' organisation Telegraph Assistants/Telegraphists in the scale of Rs.975-1660 (Basic cadre) could be promoted to the next level of Section Supervisor/Telegraph Master in the scale of Rs.1400-2300 (Grade II) on the basis of seniority-cum-fitness to the extent of 2/3rd of the vacancies and on the basis of a departmental examination to the extent of 1/3rd of the vacancies. From the level of Section Supervisor/Telegraph Master the next promotional level is that of Sr. Section Supervisor/Sr. Telegraph Master which is Grade III in the scale of Rs.1600-2660.

4. In 1983 respondents introduced the One Time Bound Promotion (OTBP) Scheme whereby a Telegraph Assistant/Telegraphist on completion of 16 years in the basic grade was eligible to be promoted to Grade II.

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5. Applicants ⁷ who joined service as

Telegraphists in 1962 and were confirmed in 1965 were promoted to Grade II under the OTBP Scheme w.e.f. 30.11.83.

6. Respondents vide order dated 16.10.90

(Annexure 15) introduced the Biennial Cadre Review Scheme (BCR Scheme) w.e.f. 30.11.90 according to which promotion was to be given to the next higher pay scale of Rs.1600-2660 (Grade III) on completion of 26 years in the basic grade. Pursuant to the BCR Scheme applicants were promoted to Grade III (Rs.1600-2660) w.e.f. 30.11.90.

7. The BCR Scheme also provided that 10% of the posts in the scale of Rs.1600-2660 would be in the pay scale of Rs.2000-3200.

8. The question whether for promotion to these 10% posts, which were in the scale of Rs.2000-3200, the seniority in the scale of Rs.975-1660 (Basic Grade) or seniority in scale of Rs.1400-2300/Rs. 1600-2660 (Grades II/III respectively) was to be the determining factor, had occasion to be examined by C.A.T., P.B. in O.A. No. 1455/91 Smt. Santosh Kapoor Vs. U.O.I. & Ors. The Tribunal in its order dated 7.7.92 (Annexure R-1) held that promotion to the 10% posts would have to be based on seniority in the basic cadre, subject to fulfilment of other conditions in the BCR Scheme viz those who were regular employees on 1.1.90 and had completed 26 years of service in basic grades

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(including higher scales). It was also directed that employees who might be senior to applicants in Grade III and who may have already been given promotion to Grade IV at the cost of those senior to them in the basic grade by any different interpretation of the Scheme, may, in respondents' discretion be considered for promotion to scale of Rs.2000-3500 by suitable adjustment through upgradation of posts instead of reverting them.

9. Civil Appeal No. 3201/93 filed against the aforesaid order dated 7.7.92 was dismissed by the Hon'ble Supreme Court on 9.9.93 (Annexure A-8).

10. Respondents vide letter dated 25.11.93 decided to implement the aforesaid order dated 7.7.92 in respect of those applicants (i.e. Smt. Santosh Kapoor & others) alone.

11. However, not long thereafter, respondents issued circular dated 13.12.95 (Annexure 11) stating that in supercession of earlier instructions, promotions to Grade IV under BCR Scheme should be given from amongst officials in Grade III on the basis of their seniority in basic grade. The promotions would be subject to fitness to be determined by the DPC.

12. Meanwhile Smt. Santosh Sareen & Others including the three applicants before us in this O.A. No 2484/97 had filed O.A. No. 718/94 seeking extension of the benefit of the Tribunal's order dated 7.7.92 to

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themselves. Noting the contents of respondents' own circular dated 13.12.95, that O. A. was disposed of by C.A.T., P.B. order dated 18.1.96, with a direction to respondents to extend the benefits of the Tribunal's order dated 7.7.92 to those applicants also, in terms of respondents' own circular dated 13.12.95.

13. Thereafter respondents issued another circular on 17.5.96 (Annexure A-13) reiterating and clarifying the instructions contained in their Circular dated 13.12.95 and 10.5.96.

14. Thereupon the three applicants along with others, filed C.P. No. 258/96 in O.A. No. 718/94 alleging non-compliance of the Tribunal's order dated 19.1.96. That C.P. along with C.P. No. 222/96 in another O.A. on the same issue was disposed of by order dated 9.4.97 (Annexure A-14) giving liberty to applicants to represent to respondents who were to pass appropriate orders within two months, and if applicants were still dissatisfied it was left open to them to agitate their grievances in accordance with law if so advised.

15. Meanwhile respondents have granted the three applicants promotion to Grade IV w.e.f. 1.1.97, 1.7.97 and 1.1.98 respectively, which respondents in their reply contend is as per their basic grade seniority.

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16. We have heard applicants' counsel Shri Sant Lal and respondents' counsel Shri R.P. Aggarwal. We have also perused the materials on record and given the matter our careful consideration.

17. Placed at Annexure R-1 is the basic grade seniority of various employees including ^{^ the} three applicants before us. To take only one illustrative example applicant No. 1 at Sl. No. 69 and applicant No. 2 at Sl. No. 70 of that seniority list are both senior to one Shri Lakhpak Rai Gumbar who is at Sl. No. 73 of that seniority list. Yet Shri Lakhpak Rai Gumbar has been promoted to Grade IV vide order dated 5/8.1.93 (Annexure A-1) while respondents as per their own averments state that applicants 1 and 2 have been promoted to Grade IV w.e.f. 11.97 and 1.7.97 respectively.

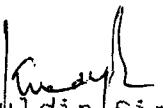
18. We are, therefore, satisfied that in the present case respondents have not followed their own circular dated 13.12.95, according to which promotions to Grade IV were to be made from amongst officials in Grade III on the basis of their seniority in the basic cadre, and the promotions to Grade IV granted to applicants w.e.f. 11.1.97, 1.7.97 and 1.1.98 cannot be said to be in compliance with the Tribunal's order dated 18.1.96 in O.A. No. 718/94.

19. These two O.As, therefore, succeed and are allowed to the extent that respondents are directed to consider promoting applicants in both

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O. As to Grade IV strictly ¹¹ w.e.f. the dates their immediate juniors in the basic grade seniority ¹ who were so promoted, subject to their otherwise being found fit for promotion, from such dates, with all consequential benefits, including seniority as well as arrears of pay and allowances and retiral benefits in case of those who have since retired on superannuation. These directions should be implemented within four months from the date of receipt of a copy of this order. No costs.


(Kuldip Singh)
Member (J)


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

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