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Central Administrative Tribunal, Principal Bench

Original Application No.2815 of 1997

New Delhi, this the 10th day of December, 1999

Hon'ble Mr.R.K.Ahooja, Member (Admnv)
Hon'ble Mr.Kuldip Singh, Member(J)

P.L.Arun, S/o Late Bhikari Lal,
Junior Engineer (Civil), Telecom
Civil Section Khatima, Distt. Udam
Singh Nagar.

Residential Address:

New T.E.Compound, Degree College
Road, Khatima Distt.Udam Singh Nagar.

- Applicant

(By Advocate - Shri D.P.Sharma)

Versus

1. Union of India, through the
Secretary, Ministry of
Communication, (Deptt. of
Telecom), Sanchar Bhawan, New Delhi
2. The Director General of
Telecommunication, Sanchar Bhawan,
20 Ashoka Road, New Delhi.
3. The Chief Engineer (C), Telecom
Civil Central Zone, 13, Rana Pratap
Marg, Lucknow.
4. Sri Amar Chand, A.S.W., O/o
Superintending Engineer (Civil),
Telecom, Bareilly.

- Respondents

(By Advocate Shri S.M.Arif)

O R D E R

By Mr.R.K.Ahooja, Member(Admnv) -

The facts of the case may be briefly stated.
The applicant was appointed as a Junior Engineer in
Bombay Circle of Department of Telecom with effect from
3.5.1980. Respondent no.4 was appointed in a similar
position but in Uttar Pradesh (Lucknow) Circle with
effect from 27.5.1980. The respondents published an All
India Eligibility List (AIEL) of Junior Engineers as on
1.1.1991. The applicant in that list was shown at
serial no.590 while respondent no.4 was shown at serial
no.594. The grievance of the applicant is that while

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respondent no.4 has been promoted as an Assistant Engineer with effect from 21.7.1995 the case of the applicant for the said promotion has not been considered. By the impugned letter dated 8.7.1996 (Annexure-A-1) the representation of the applicant against non- consideration has been rejected.

2. The case of the respondents on the other hand is that the applicant had sought a transfer from Bombay Circle to UP Circle under Rule 38 of P&T Manual. In the UP (Lucknow) Circle a seniority list was issued on 31.3.1995 wherein the name of the applicant appeared at serial no.81; on the other hand the name of respondent no.4 was placed at serial no.20. They further state that respondent no.4 was confirmed as Junior Engineer with effect from 1.3.1983 while the applicant was so confirmed only with effect from 1.4.1990. The respondents point out that in the revised All India Eligibility list published on 15.7.1996 the applicant has now come down to serial no.593. The respondents further submit that a large number of Junior Engineers senior to the applicant have not been considered and their claim cannot be overlooked by considering the case of the applicant.

3. In his arguments Shri D.P.Sharma, learned counsel for the applicant submitted that while the applicant was undoubtedly junior to respondent no.4 in the UP (Lucknow) Circle on account of his transfer under Rule 38 ibid, the said rule itself provided that when the Circle is part of a larger unit then for

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consideration of eligibility for promotion in the larger unit the old seniority was not to be changed. The applicant, according to the learned counsel, could not be deprived of his higher seniority in the All India Eligibility list as portrayed in the seniority list dated 1.1.1991. The post of Assistant Engineer was to be filled up on the basis of all India seniority and, therefore, respondent no.4, who was junior in the all India seniority list could not steal a march over the applicant. The learned counsel also pointed out that as per the decision of the Supreme Court the respondent-department has since issued instructions to delink seniority from confirmation and now inter se seniority has to take effect from the date of appointment and not from the date of confirmation.

4. We have carefully considered the above arguments and submissions. Admittedly, respondent no.4 being at serial no.20 is senior to the applicant in the UP (Lucknow) Circle, whose place is at no.81. A number of persons who are between serial no.20 and 81 are also senior to the applicant in the all India eligibility list, since they were appointed as far back in 1978 while the applicant joined service in 1980. The applicant, therefore, cannot steal a march over them only on the strength of his inter se seniority vis a vis respondent no.4 in the seniority list of 1.1.1991. Further more, OM dated 4.11.1992, a copy of which has been annexed by the applicant with his rejoinder, has to

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take effect from a prospective date. Para 4 of that OM
reads as follows :

"These orders shall take effect from the date of issue of this Office Memorandum. Seniority already determined according to the existing principles on the date of issue of these orders will not be reopened...."

5. Both the applicant as well as respondent no.4 were confirmed on different dates prior to the issue of the aforesaid OM. Under the old principle, therefore, respondent no.4 would appear to have stolen a march over the applicant due to applicant's late confirmation. For that reason also, it cannot be said that the applicant continues to maintain his inter se seniority vis-a-vis respondent no.4 even after the publication of the seniority list as on 1.1.1991. It has also been stated that the all India eligibility list of Junior Engineers was prepared by the Department of Telecom by taking into account the length of regular service in the grade without disturbing the inter se Circle's seniority placing of JEs. Respondent no.4 as per the seniority list of UP (Lucknow) Circle as on 31.3.1995 was given a higher placing above S/Shri S.C.Verma and U.C.Gupta who in the all India seniority list of 1.1.1991 were at serial nos.384 and 392. Thus, S/Shri S.C.Verma and U.C.Gupta could not rank higher than respondent no.4 even though they were recruited in 1978. The applicant at serial no.590 remained junior to S/Shri S.C.Verma and U.C.Gupta. Even so, the applicant might have obtained advantage of this anomalous position, if he had continued in the Bombay Circle. This position was,


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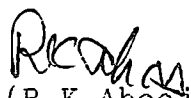
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however, changed when the applicant came to the U.P.Circle at his own request.

6. For the reasons mentioned above, we do not find any merit in the OA and it is accordingly dismissed without any order as to costs.


(Kuldip Singh)
Member (J)


(R.K. Ahooja)
Member (Admnv)

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