

Central Administrative Tribunal
Principal Bench: New Delhi

New Delhi this the 1st day of December, 1998

Hon'ble Shri S.R. Adige, Vice-Chairman (A)
Hon'ble Shri Ratan Prakash, Member (J)

OA No. 359/94

Subhash Chand
S/o Shri Jagat Singh,
R/o 1234, Kalyanvas,
Delhi-91.

.....Applicant

Versus

1. Lt. Governor of Delhi,
through
Chief Secretary, Govt. of
National Capital Territory of Delhi,
5, Sham Nath Marg, Delhi.
2. Secretary (Services),
Govt. of National Capital
Territory of Delhi,
5, Sham Nath Marg, Delhi.
3. Director,
G.B. Pant Hospital,
New Delhi.

.....Respondents

O.A. 360/94

Mohan Sawroop Arora-Telephone Operator
G.B. Pant Hospital,
S/o Shri Nathu Ram Arora,
7, Kalyan Vas, Delhi-91.

.....Applicant

Versus

1. Lt. Governor of Delhi,
through
Chief Secretary, Govt. of
National Capital Territory of Delhi,
5, Sham Nath Marg, Delhi.
2. Secretary (Services),
Govt. of National Capital
Territory of Delhi,
5, Sham Nath Marg, Delhi.
3. Director,
G.B. Pant Hospital,
New Delhi.

.....Respondents

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O.A. No. 361/94

Smt. Kamlesh Kumari
Telephone Operator,
G.B. Pant Hospital,
W/o Shri Jamiat Singh,
H-9, Type-III, Mirara Lane,
New Delhi.

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.....Applicant

Versus

1. Lt. Governor of Delhi,
through
Chief Secretary, Govt. of
National Capital Territory of Delhi,
5, Sham Nath Marg, Delhi.
2. Secretary (Services),
Govt. of National Capital
Territory of Delhi,
5, Sham Nath Marg, Delhi.
3. Director,
G.B. Pant Hospital,
New Delhi.

....Respondents

O.A. No. 362/94

Shri Ashok Kumar,
Telephone Operator
G.B. Pant Hospital,
S/o late Shri Harish Chander,
B-675, Timarpur, Delhi.

.....Applicant

Versus

1. Lt. Governor of Delhi,
through
Chief Secretary, Govt. of
National Capital Territory of Delhi,
5, Sham Nath Marg, Delhi.
2. Secretary (Services),
Govt. of National Capital
Territory of Delhi,
5, Sham Nath Marg, Delhi.
3. Director,
G.B. Pant Hospital,
New Delhi.

...Respondents

O.A. No. 363/94

Harswarup Singh
G.B. Pant Hospital, S/O
Shri Chhajju Singh,
281, Main Road, Mandawali Fazalpur,
Delhi-110092.

.....Applicant

Versus

(3)

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1. Lt. Governor of Delhi,
through
Chief Secretary, Govt. of
National Capital Territory of Delhi,
5, Sham Nath Marg, Delhi.
2. Secretary (Services),
Govt. of National Capital
Territory of Delhi,
5, Sham Nath Marg, Delhi.
3. Director,
G.B. Pant Hospital,

.... Respondents

(By Advocate: Shri S.C. Jain, for the applicant)
(By Advocate: None appeared for the respondents
Shri Jog Singh appeared after Order
was dictated)

ORDER (Oral)

By Hon'ble Shri S.R. Adige, Vice-Chairman (A)

As these five OAs involve common question of law and fact. We have disposed of by a common order.

2. Applicants in each of the five O.As seek appointment/absorption in Grade-IV(DASS) and assignment of seniority w.e.f the date of appointment as Telephone Operator on their appointment/absorption in Grade-IV (DASS).

3. We have heard applicant's counsel Shri S.C. Jain. None appeared for the respondents, although these cases were filed as far back as 1994 and were ordered to be expedited and were at Serial No. 4 to 8 of today's regular hearing list. As these cases were listed for preamptory hearing and there is a clear superscription in the above regular hearing list that

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these cases would not be adjourned, we are ⁽¹⁴⁾proceedings to dispose them of after hearing Shri Jain and perusing the materials on record.

4. It is not denied that each of the aforementioned applicants were initially appointed as Class-IV on regular basis in G.B. Pant Hospital and thereafter were promoted as Telephone Operators, in Class-III on adhoc basis. Respondents in their reply also do not deny that employees with dates of appointment as Class-IV and junior to the applicants have been promoted to the post of Grade-IV Dass. They however have denied to the applicants appointment/absorption in Grade-IV(DASS) on the ground that on the relevant date they were working as Telephone Operator(Class-III) on adhoc basis and were hence technically debarred from the said promotion because promotion to the post of Grade-IV(DASS) under promotion quota, is to be made from amongst incumbents holding Group-D/Class-IV posts.

5. As respondents themselves admit that applicants have been promoted as Telephone Operators (Class-III) only on adhoc basis, manifestly their right for consideration appointment/absorption in Grade-IV (Dass) cannot be extinguished merely on that account. Promotion as Telephone Operators on adhoc basis did not give applicants any enforceable legal right to continue as such and they could have been reverted on any date, upon which from respondents own reply the technical bar would stand removed. In that event merely because the applicants were appointed as Telephone Operator

(Class-III) on adhoc basis, they cannot be denied their right to be considered for appointment/absorption in Grade-IV (DASS).

6. As regards the assignment of seniority w.e.f the date of appointment as Telephone Operators on their appointment/absorption in Grade-IV(DASS), respondents in their reply state that applicants were appointed as Telephone Operators on adhoc basis, without the approval of the competent authority, and hence those appointments themselves are ab initio void. However SHri Jain has relied upon the Tribunal's order dated 27.11.92 in OA 3095/91 Shri Asa Ram Vs. U.O.I. wherein respondents had been directed to revise the seniority list of the Telephone Operators after taking into account the continuous uninterrupted adhoc service rendered by that applicant, and those similarly situated till the time of regularisation, and finalise the same after hearing all the representations. Shri Jain asserts that the aforesaid order fully covers the present cases. It is true that nothing has been shown to us to establish that the aforesaid judgement in Asa Ram's case (supra) has been stayed, modified or set aside but since that judgement was delivered, the law on the point of counting of adhoc service towards seniority has developed considerably in the light of various pronouncements of the Hon'ble Supreme Court.

7. In the result these OAs are succeeds and are allowed to that extent that respondents are directed to consider the cases of the applicants for

appointment/absorption in Grade-IV (DASS) w.e.f the dates their immediate juniors were so appointed/absorbed with consequential benefits. In so far as their prayer for assignment of seniority w.e.f. the date of appointment as Telephone Operator is concerned respondents shall examine the prayer, in accordance with rules, instructions and judicial pronouncements on the subject, including Asa Ram's case (Supra), to the extent that the ^{same} is applicable to the facts and circumstances of this present case, as well as recent Hon'ble Supreme Court's judgments and thereafter pass detailed speaking and reasoned orders in respect of the claims of each of the applicants within a period of four months from the date of receipt of a copy of this order.

8. Meanwhile we are told that on the basis of the interim orders passed in each all these cases applicants are continuing as Telephone Operators. If so they shall be allowed to continue till respondents pass appropriate orders as directed above.

9. The O.A. stands disposed of accordingly. No costs.

(Ratan Prakash)
Member (J)

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

cc.

[Signature]
Court Officer
Central Administrative Tribunal
Principal Bench, New Delhi
Parliament House,
C-Permanet Marg,
New Delhi 110001