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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 555/2000
MA 777/2000

New Delhi, this the 1st day of December, 2000

Hon'ble Mr. Justice V.Rajagopala Reddy, VC (J)
Hon'ble Sh. Govindan S. Tampi, Member (Admn)

In the matter of :-

1. Balik Ram
S/o Shri Mangat Ram,
103, School Block
Shakarpur, Delhi - 92
2. Mahipal Arora
S/o Late Sh. Babu Ram
H-4, Old Gobindpura Extn.
Delhi - 110051
3. Guranditta Dhingra
S/o Sh. Sital Dass Dhingra
WA-166 Shakarpur, Delhi - 92
4. Sunderdas Thukral
S/o Sh. Ram Lal
Flat No.57, Mamav Apartments, Paschim Vihar
New Delhi - 63.
5. Hardayal Singh
S/o Sh. Bipti Ram
R-34, Gali No.19 Brahimpuri (Gonda)
Delhi - 53.

...Applicants.

(By Advocate : Mrs. Rani Chabba)

V E R S U S

1. Union of India,
through Department of Telecom,
Sanchar Bhawan, Ashoka Road,
New Delhi.
2. The Telecom Commission,
through its Chairman,
Sanchar Bhawan,
Ashoka Road, New Delhi.
3. The Chief General Manager
Northern Telecom Region
New Delhi.
4. The Chief Superintendent
Central Telegraph Office
New Delhi.

...Respondents

(By Advocate : Sh. R.N.Singh, proxy for Sh. R.V.Sinha)

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ORDER (ORAL)

Justice V.Rajagopala Reddy,

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1. The applicants were working initially as Chief Telegraph Masters in the Department of Telecommunications. In 1974 a decision was taken to grant promotion up to the extent of 20 % of the existing post in the respective cadres, out of which ~~67% or 2/3rd~~ was to be promoted on the basis of seniority and the remaining through qualifying examination. The applicants were promoted and granted selection grade in their quota and were placed as Srs, in gradation list and thereafter they were promoted to the next higher post of Sr. Supervisors/Telegraph Master (Functional) in the scale of Rs.425-640/-.

2. As per the new scheme known as 'one time Bound Promotion Scheme' (O.T.B.P.) which came into effect on 30-11-83, the applicants were placed en-bloc senior to all those who were appointed in the pay scale of Rs.1400-2300/-. In the year 1990 Biennial Cadre Review (B.C.R.) has been introduced and as per the said scheme 10 % of the post for BCR Gr.III were to be placed in Gr. IV. Accordingly the applicants being seniors got the benefit of the scheme and were promoted to Gr.IV. Subsequently in OA 1455/91 filed by certain aggrieved officials, the promotion of the applicants was held as invalid. However, since, they were already promoted to Gr. IV, their promotions were directed to be protected if necessary by creating supernumerary posts. It may also held that reservations were inapplicable for promotion to

✓ Conveyed vide
order dated 21-12-2000

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upgraded posts. Accordingly the applicants were continued in the promoted posts in group IV in the supernumerary posts.

3. In the impugned order now passed while implementing the directions given by the Tribunal in the above OA for the impugned order the promotions made by giving reservation was sought to be withdrawn, but by doing so the applicants' promotion was brought down from the year 1991 to 1992 and 1992 to 1993.

4. Learned counsel for the applicant contends they are not in reserved categories, hence impugned order should not effect their promotions. But in working out this order their dates of promotion were brought down and the same is, therefore, liable to be set aside. It is also had for want of notice. It is also contended that as the promotions have been protected by an order of the Court, the same cannot be withdrawn on any ground.

5. Learned counsel for the respondents Sh. R.N.Singh submits that the OA is pre-mature, as no order has been passed withdrawing their promotions. The applicants without waiting for six months for the disposal of the representations rushed to this Court. It is not permissible under Section 19 of the Administrative Tribunal's Act. It is, further, contended that as per the policy decision taken by the Government, the promotions granted earlier on the basis of reservations made by the Tribunal are sought to be withdrawn, strictly in accordance with the directions of the Tribunal.

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6. We have given careful consideration to the contentions advanced by the learned counsel. It is no doubt true that the applicants have to wait for atleast 6 months after representation. But, it is seen in this case, the Deptt. directed to recover an amount of nearly Rs.1000/- from their salary that is good enough reason rush to the Court, to obtain interim orders. But the representation was not disposed of so far. The pendency of the OA should not come in the way of disposal of the representations. No provision is brought to our notice to have such an effect to say the hands of the the Department for its disposal. We do not find, therefore, any merit in the preliminary objection.

7. Admittedly in view of the judgment of the Tribunal dated 7-7-92, the applicants' promotion has been protected, if necessary by creating supernumerary posts and the applicants were thus continued to work. Thus though the Tribunal has found that the applicants' promotion was irregular, but in view of the specific directions of the Tribunal their cases were considered in a different manner and their promotions were left untouched by the judgment. It is now stated that the applicants are on the verge of the retirement and one of the applicants is retiring on January 2001 and the others are following suit shortly. Though, it is also stated that there was no mention in the impugned order as regards withdrawing of the directions given by the Tribunal in favour of the applicant. But, a perusal of the impugned order, makes it clear that their promotions are brought down by one year/two years. No notice was also served

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before passing this order.

8. In view of the above ~~notice~~, we have no hesitation in holding that the impugned order in so far as the applicants are concerned should be set aside. We are also supported by the judgment of the Tribunal in Devraj-I, GCS 'B', Central Telegraph Office, New Delhi & Ors. Vs. Union of India & Ors. in OA 425/2000 dated 2nd June, 2000, where on the same grounds the order dated 30-12-99 in which the decision was taken to demote the applicants was quashed. OA therefore, succeeds and is accordingly allowed with ~~the~~ costs of Rs.5000/- (Rupees five thousand).

(GOVINDAN S. TAMPI)
MEMBER (ADMN)

/vikas/

Ch. Rajendra
(V.RAJAGOPALA REDDY)
VICE-CHAIRMAN (J)