

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

CP No.540 of 2013
IN
OA No.1383 of 2000

New Delhi, this the 12th day of March, 2014

HON'BLE SHRI G. GEORGE PARACKEN, MEMBER (J)
HON'BLE SHRI SHEKHAR AGARWAL, MEMBER (A)

Sambhu Saran Singh,
A-97/A-2, Mangalam Apartment
Shalimar Garden Extension-II,
Sahibabad, Ghaziabad (U.P.).
PIN - 201005.

....Petitioner

(By Advocate : Shri Shanmuga Patro)

versus

Shri B.K. Mittal,
Executive Director,
MTNL, Delhi.

....Respondent

(By Advocate: Shri Ayusha Kumar with Ms. Sumedha Dang)

ORDER (ORAL)

SHRI G. GEORGE PARACKEN, MEMBER (J) :

This Contempt Petition has been filed by the petitioner alleging non-compliance of the Order of this Tribunal dated 12.12.2000 passed in OA No.1383 of 2000. The relevant part of the said Order reads as under:-

“10. Having regard to the above reasons and discussions above, the OA is allowed. Respondents are directed to consider the claim of the applicant to the post of JTO placing him above those who were ranked lower to the applicant to the select list (1993094) recruitment as per rules. No costs.”

2. The aforesaid Order of this Tribunal was challenged by the respondents before the Hon'ble High Court of Delhi vide Writ Petition (Civil) No.870/2001. The High Court while



disposing of the said Writ Petition on 20.7.2001 passed the following orders.

"In the circumstances, the petition is disposed off to the mutual satisfaction of parties by providing as under:-

Petitioners may make a representation to the competent authority on the subject matter within two months claiming that B.Sc. included his Engineering degree or was equivalent to it in accordance with Patna University curriculum. Petitioners in that event shall examine the matter and may seek assistance from the concerned university and pass appropriate orders whether Respondent was eligible for the post of JTO in terms of prescribed qualification. They shall do so within three months from receipt of Respondent's representation and they shall issue appropriate letter of appointment to him if he was found so eligible."

3. Pursuant to the aforesaid orders, the petitioner has made a representation dated 11.9.2001. As the respondents have not complied with the aforesaid Order of this Tribunal as modified by the High Court, he has filed CCP No.558 of 2002 before the Hon'ble High Court and the same was disposed of by the High Court vide its Order dated 3.9.2003. The said order reads as under:-

"Counsel for the Respondent on instructions from G.M. (Law) who is present in Court states that a decision has been taken by the Adviser, HRD, Department of Telecommunication to recruit the Petitioner. It is stated that the Petitioner shall be sent for Training on the next Training for direct recruits which is tentatively fixed to commence on November 3, 2003. In view of this statement, no further Orders are called for in this Petition.

Counsel for the Petitioner, however, submits that his seniority should be fixed in terms of the Order of the CAT dated 19.12.2000. He may make

a Representation to the Advisor, HRD, Department of Telecommunication in this regard if the need arises. The Adviser, HRD, Department of Telecommunication shall dispose of the Representation by speaking Order within six weeks of the receipt thereof.

The Contempt Petitions stands disposed of and the notice of Contempt is discharged."

4. It is seen that respondents have already issued a Gradation List vide Letter No.STA-I/2-16/Corrs./JTOs/2007-08/14 dated 24.12.2008 in which the name of the petitioner has been shown at Serial No.398A, i.e, below Shri Dharam Pal Singh and above Shri Kumar Chandra Bhushan who are at Serial No.398 and 390 respectively. Thereafter, the Corporate office of the MTNL vide its letter No.MTNL/CO/Pers-II/Delhi Unit Case File/2010-11(KW)/557 dated 9.4.2013 addressed to the Senior Manager (Admn-I), HQ, MTNL, Delhi Unit pointed out certain disparity in pay fixation of aforesaid Shri Kumar Chandra Bhusan, JE and the petitioner herein. The relevant part of the said letter reads as under:-

"The case has been examined at Corporate Office level and a comparative analysis of the two officers has been drawn which is as given below:-

	Shri Kumar Chandra Bhusan, JE-4840	Shri Shambhu Saran Singh, Staff No.JE 5285
E2 Grade	21.12.98	20.03.2004
SDE Officiating	1.11.2004	23.07.2007
E3 Grade	1.10.05	1.12.2008
E4 Grade	1.10.10	1.12.2013

From the above, it is not clear whether the other consequential benefits such as protection of pay, notional date of promotion and other service benefits at par with his immediate junior has been provided to Shri Shambhu Saran Singh or not.

In this regard, I please also refer to the DoT letter No.6-6/2006-SNG dated 1/10/2012 (copy enclosed), wherein it has been stated that "it is observed that MTNL has granted local officiating promotion to SDE & financial upgradation as per MTNL promotion policy scheme by

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treating his date of appointment as 20.03.2004. As such, the purpose of fixation of seniority with reference to his junior is not clear.”

In view of the above, you are requested to further look into the matter and sent your comments.”

5. Thereafter, the Senior Manager, MTNL, vide his letter dated 1.5.2013 sought clarification from the Government of India, Department of Telecommunication regarding his fixation of pay and other consequential benefits. Later, the respondents, vide their letter No.STR/JTO/OS/94/75/58 dated 30.10.2013, informed the petitioner that the competent authority has decided to appoint him as JTO in terms of orders of this Tribunal dated 19.12.2000 passed in OA No.1383/2000. They have also informed him that he would be sent for JTO Training as early as possible for which they had already taken up the case with D.E. (T.M.) Jabalpur for allotment of one seat. Thereafter the petitioner has also undergone the said training.

6. The contention of the learned counsel for the petitioner is that in spite of the aforesaid communications of the concerned departmental officers, his pay has not so far been fixed and other consequential benefits have not been given to him.

7. However, the respondents' counsel has submitted that they have fully complied with the orders of this Tribunal as modified by the Hon'ble High Court of Delhi. Accordingly they have appointed the applicant as JTO and his seniority has also been fixed.

8. We have heard the learned counsel for the parties. In our considered view, there is no contempt of Court which can be attributable to the Respondents as they have substantially complied with the order of this Tribunal as modified by the High Court. Therefore, this Contempt Petition is closed. Notice issued to the alleged contemnor is discharged.

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However, if the petitioner still aggrieved of the non-grant of consequential benefits arising out of his promotion as JTO and fixation of his seniority, he can claim them by way of separate representation, if he so desire. If any such representation is received by the respondents, they shall consider the same in accordance with rules and pass appropriate orders in the matter within a reasonable time. No costs.



(SHEKHAR AGARWAL)
MEMBER (A)

/ravi/



(G. GEORGE PARACKEN)
MEMBER (J)