

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

DA No. 1217/90

Date of decision 14.2.1997

Shri Baldev Raj Petitioner
Shri Sant Lal Advocate for the Petitioner
Vs.
U.O.I. &Ors ... Respondent
Sh.N.S. Mehta, Sr. Advocate for the Respondents
Standing Counsel.

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Hon'ble Shri S.R. Adige, Member (A)

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

(1) To be referred to the Reporter or not? *yes*

(2) To be circulated to all Benches of the *X*
Tribunal ?

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

Central Administrative Tribunal
Principal Bench.

O.A. 1217/90

New Delhi this the 14th day of February, 1997

Hon'ble Shri S.R. Adige, Member(A).
Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Shri Baldev Raj,
S/o Shri Kewal Ram,
R/o C/o Shri Sant Lal, Advocate,
C-21(B), New Multan Nagar,
Delhi-56.

..Applicant.

By Advocate Shri Sant Lal.

Versus

1. The Union of India,
through the Secretary,
Ministry of Communication,
Department of Telecommunication,
Sanchar Bhawan,
New Delhi.
2. The Chief General Manager,
T&D Circle, Deptt. of Telecommunication,
Sanchar Vikas Bhawan,
Jabalpur.
3. The Divisional Engineer Telegraphs,
A/T (SW), N.E.C. Eastern Court,
New Delhi.
4. The Chief Postmaster General,
Meghdoot Building, Delhi Circle,
New Delhi.
5. The Chief Postmaster,
New Delhi G.P.O.
New Delhi.

..Respondents.

By Advocate Shri N.S. Mehta, Senior Standing Counsel.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

This application has been filed by the applicant seeking the following main reliefs:

- "(i) To direct the respondents to confirm applicant in Class-IV keeping in view his date of appointment, i.e. 12.11.1966;
- (ii) To direct the respondents to grant the next higher scale of pay under the time Bound One Promotion Scheme from due date on completion of 16 years service in the present grade in accordance with the D.G.P.&T New Delhi Order No. 1-71/83-NCG dated 17.12.1983; and

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(iii) To grant consequential benefits of arrears and seniority, with costs".

2. The facts in this case are not disputed and the relevant facts are narrated in the order passed by Respondent 4 on 2.6.1995 (copy placed on record). From this order, it is seen that the applicant Ty. Group 'D'(NTC) of that office was sent on deputation to the office of the Assistant Engineer (AT) Karol Bagh Exchange, New Delhi with effect from 8.2.1967 for a period of four years. He was finally repatriated to the landing authority vide Respondent-2, Department of Telecommunication's letter dated 5.4.1995 and he had resumed his duties with effect from 12.5.1995. Thereafter, the order dated 2.6.1995 had been passed by which the applicant was deemed to have been confirmed as Group'D' (NTC) in the scale of Rs.70-85 with effect from 1.3.1976(FN), the date from which his junior, Shri Bhim Bali, had been confirmed in that scale. In this order, the respondent has stated that the Time Bound One Promotion (TBOP) Scheme which was introduced by them w.e.f. 30.11.1983 does not cover Group 'D' (NTC) officials and as such the benefits of TBOP cannot be given to the applicant.

3. We have heard both the learned counsel for the parties and perused the pleadings.

4. From the order of 2.6.1995, it is seen that the original terms of deputation of the applicant as Group'D' (NTC) employee from Respondent 4 to the office of Respondent 2 was only for a period of four years. In the replies filed by the respondents, no satisfactory explanation had been given as to how or why this period had been extended beyond the period of four years upto nearly 28 years. In the reply filed on behalf of Respondents 4 and 5, they have submitted that in case the Respondents 2 and 3 had returned the applicant on completion of his prescribed deputation period in 1971, all his claims would have been settled well in time, but Respondents

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2 and 3 did not return the applicant. The Respondents 1-3 have on the other hand submitted that it was for the other respondents to have taken him back and decided about his claims for absorption, seniority and promotion. From these facts, it appears that both the departments, namely, the Department of Telecommunications and the Department of Posts, are trying to blame each other for their own laches and lapses and trying to palm off their responsibility to the other. Shri Sant Lal, learned counsel for the applicant, has relied on the letter dated 3.4.1987 from the office of Respondent 2 in which the question of adjustment of Group 'D' staff recruited by P.M.G. New Delhi deputed to T&D Circle has been discussed and the particular promotion case of the applicant. In this letter, it has been stated that in order to obviate the applicant's sufferings which he is put because of the administrative reasons and considering his lower cadre in the department, a proposal had been made that the applicant may be adjusted in the neighbouring T&D circle from 8.2.1967, i.e. the date on which he went on deputation, that he will be confirmed against that post on which he is operating, and that he will be given promotion under the TBOP scheme from the date of his appointment, i.e. 12.11.1966. However, it was also mentioned that he will have no claim to get himself merged in the gradation of the T&D circle office Group 'D' staff. No doubt, this was only a proposal put up within the office of Respondent 2. Thereafter, as already mentioned above, the order of Respondent 4 has been passed dated 2.6.1995 taking him back in service in their cadre and denying him the promotion under the TBOP scheme.

5. Having regard to the above facts and the admitted delay, laches and lapses on the part of the respondents, the preliminary objection of delay and limitation taken by the respondents, is rejected. It does not behove the respondents in the present circumstances to take such pleas or to deny their employee, and that too a Class-IV Group 'D' employee, the benefits of service rendered by him. Admittedly, the applicant has rendered more than 25 years of service

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in Group 'D' post without any promotion. Now that Respondents 4 and 5 have taken him back in their cadre, we do not see any justification in their stand in not giving him at least the promotion due to him after 16 years of service from the date of his appointment as Class-IV Group 'D' with them with effect from 12.11.1966. The respondents cannot take advantage of their own lapses in denying the applicant the promotion due to him after putting in 16 years of service. It is, however, made clear that the reliefs granted to the applicant are personal to him on the particular facts and circumstances of the case. The O.A. has been filed on 1.6.1990 and xxxx the TBOP scheme has come into effect from 30.11.1983.

6. Therefore, in the facts and circumstances of the case, this application is disposed of with the following directions:

- (a) Respondents 4 and 5 are directed to grant promotion under the TBOP scheme after 16 years of service from the date of his appointment with effect from 12.11.1966;
- (b) He will be given notional pay fixation from the date the TBOP scheme was given effect to i.e. 30.11.1983;
- (c) The arrears of salary, on the higher post of promotion will be paid to the applicant with effect from one year prior to the date of filing of this O.A., i.e. with effect from 1.6.1989;
- (d) The above action shall be taken by the respondents within a period of two months from the date of receipt of a copy of this order.
- (e) O.A. is allowed, as above. No order as to costs.


(Smt. Lakshmi Swaminathan)
Member(J)


(S.R. Adige)
Member(A)