

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

D.A. No. 2188/90

New Delhi this the 23rd day of November 1995

Hon'ble Shri N.V.Krishnan, Acting Chairman

Hon'ble Shri D.C.Verma, Member (J)

1. Shri N.R.Gurnani,
S/o Shri R.S.Gurnani,
R/o 47/18, East Patel Nagar,
New Delhi- 110 012
2. Shri R.K. Khaneja,
S/O Shri C.L.Khaneja,
R/o 270, Hakikat Nagar,
Delhi-110 009.
3. Shri V.K.Gera,
S/o Shri H.C.Gera,
R/o 2/50, Old Rajinder Nagar,
New Delhi-110 060.
4. Shri S.K.Sethi,
S/o Shri A.C.Sethi,
R/o B-3/76, Janak Puri
New Delhi.

(By Advocate: Shri N.Amresh)

....Applicants

Versus

1. The Union of India through the
Secretary to the Government,
Department of Telecommunications,
Sanchar Bhavan,
New Delhi.
2. The Member (Services),
Telecom Commission,
Sanchar Bhavan,
New Delhi.
3. The Member(Production),
Telecom Commission,
Sanchar Bhavan,
New Delhi.
4. The Senior Deputy Director General(BW),
Telecom Commission,
Sanchar Bhavan,
New Delhi.

(By Advocate: B.Lal)

....Respondents

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ORDER(Oral)

Hon'ble Shri N.V.Krishnan, Acting Chairman

The relief_s sought in this OA are as follows:-

- i) Grant of declaration that the principle laid down in the Judgement and Order passed on 6.2.1987 by the Calcutta Bench of this Hon'ble Tribunal, which has been accepted and applied in the order dated 27.9.1989 in the case of the applicants in the said OA, viz., that those who had completed 5 years of service as Jr. Engineer on 1.11.78 and were eligible to sit in the departmental examinations in the year 1979 and 1980 and were denied the opportunity of qualifying in the examinations in the said years because no such examinations were held in those years will be deemed to be regularly appointed as Asstt. Engineer w.e.f. the respective dates of their completion of 8 years of service as Jr. Engineer, should be applied and implemented in the case of the applicants;
- ii) Grant of orders that the applicants shall be deemed to have been promoted as Asstt.Engineers on a regular basis w.e.f. the date on which they completed 8 years of service as Jr. Engineer, i.e. from 31.3.1979, 5.8.1980, respectively and that their seniority in the post of Asstt.Engineer will be fixed on the basis of the same deemed date of regular promotion and that their pay in the post of Asstt.Engineer will be fixed during the period of their adhoc promotion as Asstt.Engineer and from 26.9.1989 on the basis of such deemed promotion;
- iii) Grant of direction to the respondents to refix the inter-se-seniority of the applicants and those mentioned in the Annexure I to the order

dated 27.8.1989 on the basis of the applicants being deemed to have been promoted regularly as Asstt.Engineers on the date on which they completed 8 years of service as Jr. Engineer;

iv) Grant of directions to the respondents to refix the pay of the applicants for the period when they had been promoted adhoc as Assistant Engineers and as on 26.9.1989 after notionally fixing their pay in the post of Asstt.Engineer on the basis of the deemed promotion w.e.f. the date on which they completed 8 years of service as Jr Engineer;

v) Grant of orders direction the respondents to grant to the applicants the arrears of pay and allowances for the period of their adhoc promotion and from 26.9.1989 on the basis of the refixation of pay on the basis of the notional promotion from the due date and all other consequential reliefs;

vi) Grant of any other relief which this Hon'ble Tribunal deems appropriate and necessary in the facts of the case;

2. The principal issue is regarding the seniority. In this regard, it is conceded that after issue the office Memorandum dated 20-6-94 by the Ministry of Communication the applicant's grievance in this regard has been settled. Therefore nothing survives in the matter.

3. Ld Counsel for the applicant however submitted that persons junior are drawing higher pay and, therefore, a direction should be issued to the respondents to step up the pay to the applicants also to the level of pay drawn by those juniors. We wanted know from the Ld Counsel whether any specific averment has been made in this regard and any prayer has been made. He draws our attention

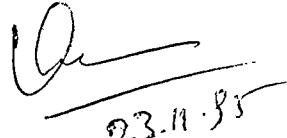
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to the last sentence of para-1 of the OA in which an averment has been made that the applicants cannot also be paid less pay than those who were juniors. He also submits that though no specific prayer has been made it is open to the Tribunal to mould the relief (P.S.Shivadas and Another Vs. National Environment Institute and Another 1994 26 ATC 83).

4. We have considered his request. We find that for a claim that the pay of the applicants have to be stepped up to the level of the juniors, there should be averments about who are the junior, what pay they are drawing, what pay the applicants draw and why the pay should be stepped up. The OA is lacking in all these aspects. We are, therefore, the view that there is no question of considering that prayer in this OA. We ^{erv} dismiss the OA as having become infructuous pressing the liberty of the applicants to agitate the issue of stepping up their pay to that of juniors if so advised in accordance with law.

5. OA disposed of accordingly.


(D.C.VERMA)
Member (J)


23.11.85
(N.V.KRISHNAN)
Acting Chairman

cc.