IN THE CENTRL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA 229/91 Date of decision 13.5.1992

R.D. Gambhir & Ors. Applicants

Shri R.L. Sethi, Counsel for the applicants

2. O.A. No. 227/91	B. Thirunavukkarasu	Applicant
3. OA 228/91	P. Panchapakesan	Applicant
4. OA 230/91	B.K. Puranik & Ors.	Applicants
5. OA 231/91	Mohd. Anwar	Applicant
6. OA 232/91	T. Bharthi Devi & Ors.	Applicants
7. OA 233/91	N. Shankar Rao & Ors.	Applicants
8. OA 954/91	K. Ramchandran	Applicant
9. OA 955/91	A. Soosal	Applicant
10. OA 956/91	P.N.G. Gopal	Applicant
11. OA 957/91	H. Meenakshi Sundaram & Ors.	Applicants

vs.

Union of India - D/o Telecomm. Respondents

Shri P.P. Khurana Counsel for the respondents

CORAM

The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman(J).

The Hon'ble Mr. I.P. Gupta, Member (A).

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not? Yes.
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether it needs to be circulated to other Benches of the Tribunal?

(Judgment of the Bench delivered by Hon'ble Shri I.P. Gupta, Member (A).)

I.P. Gupta
13/5/92

Ram Pal Singh
13.5.92

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Hon'ble Shri I.P. Gupta, Member (A).

(Judgment of the Bench delivered by Hon'ble Shri I.P. Gupta, Member (A).)

JUDGMENT

In the aforesaid OAs, a common relief, namely, that the impugned orders of 4.3.1987 abolishing the cadre of Observation Supervisors in the Department of Telecommunications should be quashed has been prayed for and, therefore, these OAs are being dealt with by a common order.

2. These old cases [illegible] of year 1987 have been appearing in the cause list, but the counsels whose names were shown in the respective cases did not appear except Shri R.L. Sethi, counsel for

the applicant in OA 229/91. We, therefore, directed that these cases will be listed today for disposal and it was also mentioned that in the event of non-appearance of the counsels, the cases will be reserved for judgment. Again today, except Shri R.L. Sethi, none of the counsels for the applicants appeared to argue the case. However, Shri R.L. Sethi took us through the entire records in the matter. Shri P.P. Khurana appeared for the respondents and argued the case. We, therefore, proceed to prepare the judgment.

3. The applicants after qualifying in the written test and oral interview were selected and appointed as Observation Supervisors and have had to sever their connection with the basic cadre of Telephone Operators. It was on the recommendation of the 3rd Pay Commission that the P&T Board decided to create a separate cadre of Observation Supervisors and placing 10% of the basic posts of Observation Supervisors in the Selection Grade. Some of the applicants have even been confirmed as Observation Supervisors. The basic duties of the Observation Supervisors were to monitor speech on trunk lines, to operate circuits etc.

4. The contention of the learned counsel for the applicants was that when they were duly recruited as Observation Supervisors, according to the P&T (Observation Supervisors) Rules, 1979, the cadre of Observation Supervisors cannot be abruptly abolished by order of 4.3. 87. The counsel further argued that the merger of the Observation Supervisors with the main stream of Telephone Supervisors implied that it would be according to the seniority in the cadre of Telephone Operators at the time of their selection as Observation Supervisors, but this would affect them adversely and their seniority as Observation Supervisors should be taken into reckoning in the case of merger with the main stream of Telephone Supervisors.

5. The contentions of the learned counsel for the respondents were that the Observation Supervisors have been given option to continue as Observation Supervisors if they are not willing to merge with the Telephone Supervisors. It is the prerogative of the administration to decide in the public interest to create any cadre and to

continue to have it or to abolish the same to get the work done by other staff. The total sanctioned strength of Observation Supervisors was 251 thoughout India and it was observed that due to lack of mobility of Observation Supervisors to other posts, the purpose of creation of a separate cadre was defeated.

6. So far as Selection Grade is concerned, as per the recommendations of the 4th Pay Commission, this cadre has already been abolished in all cadres under the Government of India.

7. The duties of the posts of Observation Supervisors have been laid down through administrative orders from time to time and, therefore, duties can be modified/altered through administrative orders. With the merger of the cadre of Observation Supervisors and Telephone Supervisors, the applicants will be benefited as they will get the chance of promotion to higher posts of Senior Supervisors (Telephones), as contended by the learned counsel for the respondents.

8. The basic issue to be decided is whether the order dated 4.3.87 abolishing the cadre of Observation Supervisors can be sustained. The law on this point is clear. It is now well settled as a result of the decision of the Supreme Court in Kishan Mohan Lal Bakshi vs. Union of India (AIR 1962 SC 1139) that Article 16 and a fortiori also Article 14 do not forbid the creation of different cadres for Government service and if that is so, equally these two Articles cannot stand in the way of the State integrating different cadres into one cadre. It is entirely a matter for the State to decide whether to have different separate cadres or one integrated cadre in its services. The aforesaid views were reiterated by the Supreme Court in the Reserve Bank of India vs. N.C. Paliwal, AIR 1976 SC 2345.

9. In V.T. Khanzode vs. Reserve Bank of India (1982 SCC (L&S) 147 at 167), the Supreme Court has observed as follows:-

> "No scheme governing service matters can be foolproof and some section or the other of employees is bound to feel aggrieved on the score of his expectations being falsified or remaining to be fulfilled. Arbitrariness, irrationality, perversity and mala fides will of course render any

scheme unconstitutional but the fact that the scheme does not satisfy the expectations of every employee is not evidence of these."

The Cuttack Bench of the C.A.T. also held in their decision of 8th August, 1990 in OAs 177, 178 and 179 of 1987 that the cadre of Observation Supervisors was created by the P&T Board by an executive order and the cadre has been abolished by another executive order and no exception could be taken to the action of the Department on the ground of illegality. In A.I.R. 1973 SC 2641 - N. Ramanatha Pillai vs. State of Kerala - the Hon'ble Supreme Court had made the following observations:

"The first question which falls for consideration is whether the Government has a right to abolish a post in the Service. The power to create or abolish a post is not related to the doctrine of pleasure. It is a matter of governmental policy. Every sovereign Government has this power in the interest and necessity of internal administration. The creation or abolition of post is directed by policy decision, exigencies of circumstances and administrative necessity. The creation, the continuance and the abolition of post are all decided by the Government in the interest of administration and general public."

10. In the conspectus of the aforessaid facts, we do not find any illegality in the orders dated 4.3.87 abolishing the cadre of Observation Supervisors, more so when the existing employees are being merged into a cadre with a similar pay scale and further more, when an option has been given that those who do not exercise the option to merge with the cadre of Telephone Supervisors may be allowed to continue as a separate cadre. As regards fixation of inter se seniority, raised by the learned counsel for the applicant, we may mention that this issue has not been prayed for under the relief clause. The counsel has said that the applicants are being relegated to their old positions in their earlier posts of Telephone Operators. The counter shows that they are being absorbed in ~~abolished~~ in equivalent grade of Telephone Supervisors. As regards fixation of seniority by determining the inter se position in the lower grade of Telephone Opertors, which is the feeder post both for Observation Supervisors and Telephone Supervisors, we woud not like to express firm opinion since the issue of seniority was not raised under the relief clause of the O.A. and the only prayer was for quashing of the order of abolition of the cadre of Observation Supervisors.

We would, however, reiterate that while abolishing the cadre, option has been given to existing Observation Supervisors to continue to remain as Observation Supervisors in their existing positions, should they not like to merge in the cadre of Telephone Supervisors.

11. With the aforesaid observations, the applications are dismissed with no orders as to costs.

(I.P. GUPTA) 13/5/92
MEMBER (A)

(RAM PAL SINGH)
VICE-CHAIRMAN (J)