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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.2129 OF 2004

New Delhi, this the 4th day of March, 2005

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Dr. M.S. Sachdeva D.H.M.S.
(Retired Group B Department of Telecommunication)
J-64, Sarita Vihar,
New Delhi-110044.

....Applicant.

(By Advocate : Shri G.S. Lobana)

VERSUS

1. Union of India, through
Secretary Department of Telecommunications
Sanchar Bhawan,
New Delhi-110001.

2. Member (Finance)
Telecommunication
New Delhi-110004.

....Respondents.

(By Advocate : Shri Mohar Singh)

ORDER (ORAL)

Heard the counsel.

2. Vide order dated 25.9.1998, Govt. of India, Ministry of Communication has granted concessional telephone facilities to retired employees of Department of Telecommunication (hereinafter referred to as 'DoT') subject to the condition that only those employees (both permanent and temporary), who put in minimum of 20 years or more continuous service in DoT or having their last posting in DoT for at least one year before retirement will be covered under the Scheme. This Scheme was basically extended to the retired employees. The date of implementation is mentioned as w.e.f. 1.10.1998. The applicant, who had retired on 4.4.1988 having rendered about 28 years of service before 1.4.1985 when

Department of posts and Department of Telecommunication have bifurcated, contends that in the light of the decision of the Full Bench of this Tribunal in the case of J.P. Kaushik Vs. Union of India, 2002 (1) ATJ 589, wherein a reference has been answered to the extent that service rendered by an employee in the erstwhile P & T Department should be counted towards continuous service as in DoT. Further by placing reliance on the decision of this Tribunal in the case of The Association of AICGP, Orissa, Cuttack v. UOI & Ors., 2004 (2) ATJ 291, it is contended by the learned counsel of the applicant that similarly situated have been granted the concessional telephone facilities. Learned counsel further states that this Memorandum of 25.9.1998 provides that one should have rendered 20 years (permanent or temporary) or more service in DOT or having last posting in DoT for at least one year before retirement is eligible to avail the concessional telephone facilities.

3. On the other hand, learned counsel for the respondents by referring to Circular No.15/1999 dated 30.12.1999, which is a clarificatory circular, contends that concessional telephone facilities are admissible only to the retired employees of DoT and employees of other departments would not be covered.

4. I have heard the rival contentions of the parties and perused the material available on record.

5. It is no more *res integra* in the light of the decision of the Full Bench of this Tribunal (*supra*) that employees rendered services before 1.4.1985, when Department of Posts and Department of Telecommunication were yet to be bifurcated have been included who had put in 20 years or more continuous service in the erstwhile Department of Posts and Department of Telecommunication even where the cadre controlling authority, Group 'A'

which is a common Service for both the Departments and as such are eligible for the grant of concessional telephone facility.

6. In the light of the above, OM dated 25.9.1998 which provides concessional telephone facility to an employee, who has rendered 20 years (permanent or temporary) or more service continuously in DoT, the service rendered by the applicant on 4.4.1988 comes to about 28 years. As such this service admittedly is more than 20 years. In that event, this Memorandum of 25.9.1998 for grant of concessional telephone facility would have to be extended to the applicant deeming him to be an employee of DoT.

7. As regards application of this facility is concerned, though the Memorandum was issued on 25.9.1998 yet it being a welfare legislation, which accords concessional telephone facility to the retired DoT employees for want of any indication in the Memorandum of applicability to the retirees of on or after 25.9.1998, only, clause 6 which provides that date of implementation is w.e.f. 1.10.1998. It is trite law that an executive instructions unless debars a person from its purview, it would be extended to the similarly circumstanced.

8. As the applicant is also deemed to be a retired employee of DoT, he cannot be deprived of the aforesaid facility.

9. In the result, for the reasons given above, OA is allowed. Respondents are directed to provide concessional telephone facility to the applicant when he had applied w.e.f. February, 2000 within two months from the date of receipt of a copy of this order. No costs.

S. Raju
(SHANKER RAJU)
MEMBER (J)

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