IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.OA 314 of 1991
OA 1758 of 1991
OA 173 of 1992

Date of decision: 23.10.1992

(1) OA 314/1991

Shri A.S. Chaudhary & Others ...Applicants

(2) OA 1758/1991

Shri Ranbir Singh & Others ...Applicants

(3) OA 173/1992

Shri D.N. Goel & Others ...Applicants

Vs.

Union of India through the Secretary, Ministry of Communications & Others ...Respondents

For the Applicants ...Shri Naresh Kaushik, Counsel

For the Respondents in 1+2. ...Shri P.P. Khurana Counsel
& For the respondents in 3 ...Shri A.K. Sikri &

CORAM:
THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)
THE HON'BLE MR. B.N. DHOUNDIYAL, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? Yes

2. To be referred to the Reporters or not? No

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha, Vice Chairman(J))

The applicants in these applications have a common grievance and it is proposed to dispose them of by a common judgment.

2. The controversy relates to the mode of promotion to Telecom Engineering Service (Group 'B') as well as to the fixation of seniority of Junior Telecom Officers and Assistant Engineers in that department in accordance with

the recruitment rules and para 206 of the P&T Manual, Vol.IV. Para 206 provides for a pass in the departmental qualifying examination as a condition precedent for promotion to the Telecom Engineering Service, Group 'B'. Para 206 (II) of the Manual provides that promotion to the TE and WS (Class II) will be according to the seniority-cum-fitness, but engineering supervisors who pass the qualifying examination earlier will rank senior en block a group to those who pass the examination later.

3. W.P.Nos. 2739/1981 and 3652/1981 (Parmanand Lal and Brij Mohan Vs. Union of India & Others)filed in the Allahabad High Court wherein similar issues had been raised were disposed of by judgment dated 20.02.1985. The petitioners who had qualified in the qualifying examination held in 1974 were aggrieved by their placement below the last man who passed the qualifying examination in 1975. The case of the department was that the eligibility list had been arranged on the basis of seniority, based on the year of recruitment, ignoring the year of passing the qualifying departmental examination. The High Court considered the rules of 1966 as also the rules of 1981 and Para 206 of the P&T Manual and came to the conclusion that those who qualified in the departmental examination earlier were entitled to be promoted prior to those who qualified later irrespective of the year of their initial recruitment. The High Court noticed that para 206 of the P&T Manual was in existence when the

rules of 1966 or 1981 came into force and held that para 206 was not in conflict with either the rules of 1961 or 1981 but was supplemental to those rules. Relief was accordingly granted to the petitioners based on the interpretation of the rules and para 206 of the P&T Manual.

4. The applicants before us are also seeking the same relief based on the aforesaid judgment.

5. Following the ratio of the aforesaid judgment, this Tribunal has disposed of numerous applications. SLPs filed against the aforesaid judgment were dismissed on merits on 8.4.1986. SLPs filed against the judgment dated 7.6.1991 in OA 1599 of 1987 and connected matters (Dijit Kumar & Others Vs. Union of India & Others) were dismissed with some observations on 6.1.1992 along with Intervention Application No.1 and SLP(C) 91 of 1991 filed by the Junior Telecom Officers Association. A batch of 29 applications raising the same issue was disposed of by the Tribunal by judgment dated 22.4.1992 (OA 2407 of 1988 and connected matters - Shri S. Venkateswara Shenoi and Others Vs. Union of India & Others). SLP Nos.9063-64 of 1992 filed against the judgment of the Tribunal dated 22.4.1992 were dismissed by the Tribunal by judgment dated

18.9.1992 (Junior Telecom Officers Forum and Others Vs. Union of India & Others, 1992 (2) SCALE 605).

6. In the light of the above, the applications are disposed of with the following orders and directions:-

(1) Subject to what is stated in (2) below, we hold that the decision of the Allahabad High Court dated 20.02.1985 in the cases of Parmanand Lal and Brij Mohan and the judgments of the Tribunal following the said decision lay down good law and constitute good precedents to be followed in similar cases.

(2) We hold that the applicants are entitled to the benefit of the judgment of the Allahabad High Court dated 20.02.1985 except that in the event of refixation of seniority and notional promotion with retrospective effect, they would be entitled only to refixation of their present pay which should not be less than that of those who were immediately below them and that they would not be entitled to back wages. We order and direct accordingly.

(3) We hold that in case the redrawing of the seniority list results in reversion of officers who had been duly promoted already, their interests should be safeguarded at least to the extent of protecting the pay actually being drawn by them, in case creation of the requisite number of

supernumerary posts to accommodate them in their present posts is not found to be feasible. We order and direct accordingly.

(4) While effecting promotions, the respondents shall give due regard to the provisions for reservation in favour of Scheduled Castes/Scheduled Tribes.

(5) The respondents shall comply with the aforesaid directions expeditiously.

(6) There will be no order as to costs.

Let a copy of this order be placed in all the three case files.

(B.N. DHOUNDIYAL)
MEMBER (A)
23.10.1992

(P.K. KARTHA)
VICE CHAIRMAN(J)
23.10.1992

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(R. S. KARDAM)
S. O./C. O. C A T P. B.