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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

- 1) C.P. NO. 253/91 in O.A. NO. 1673/87 M.A. NO. 545/94
- 2) C.P. NO. 254/91 in O.A. NO. 2139/88
- 3) C.P. NO. 255/91 in O.A. NO. 1671/87 M.A. NO. 3718/94
- 4) C.P. NO. 256/91 in O.A. NO. 1597/87
- 5) C.P. NO. 257/91 in O.A. NO. 1599/87 M.A. NO. 3722/94
- 6) C.P. NO. 258/91 in O.A. NO. 2141/88
- 7) C.P. NO. 60/93 in O.A. NO. 2238/91
- 8) C.P. NO. 160/93 in O.A. NO. 1758/91
- 9) C.P. NO. 211/94 in O.A. NO. 445/92
- 10) C.P. NO. 279/94 in O.A. NO. 2417/91

New Delhi this the 3rd day of July, 1995

CORAM :

HON'BLE SHRI JUSTICE S. C. MATHUR, CHAIRMAN
HON'BLE SHRI P. T. THIRUVENGADAM, MEMBER(A)

- 1) C.P. NO. 253/91 in O.A. NO. 1673/87
M.A. NO. 545/94
1. Rakesh Srivastava (Staff No.5336)
A.E. (CD), A.L.T.T.C.,
Ghaziabad-201002.
2. Sanatan Das (Staff No.5197)
A.E. Telecom Training Centre,
Jabalpur-482001.
3. K.C.P. Srivastava (Staff No.5201)
S.D.O. Telegraph,
Shahjahanpur.
4. S. N. Gupta (Staff No.5205)
Asstt. Engineer, A.L.T.T.C.,
Ghaziabad-201001.
5. J. P. Gupta (Staff No.5233)
Asstt. Engineer, A.L.T.T.C.,
Ghaziabad-201001.

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6. D. S. Dhiren (Staff No.5254),
Asstt. Engineer, A.L.T.T.C.,
Ghaziabad-201001.
7. A. K. Pandey (Staff No.5268),
S & T.O. Grade-I,
Telecom Research Centre,
Devika Towers, Nehru Place,
New Delhi.
8. G. S. Bedi (Staff No.5269),
Asstt. Engineer (CP)
O/O Addl. G.M.(P),
Eastern Court, New Delhi-1.
9. S. C. Gupta (Staff No.6866),
A.E. (Carrier) Long Distance,
Jaipur.
10. B. C. Aggarwal (Staff No.6870),
Asstt. Engineer, O/O General
Manager, Ramniwas II, Khanpur,
Ahmedabad.
11. M. L. Oberoi (Staff No.6871),
Asstt. Engineer (Duct Planning-2),
O/O Addl. G.M.(P),
Naraina Phase-II,
New Delhi.
12. Inderjit (Staff No.6877),
Asstt. Engineer, A.L.T.T.C.,
Ghaziabad-201001.
13. Hans Raj (Staff No.6894),
Asstt. Engineer, O/O D.G.M.(P),
Eastern Court, New Delhi.

Applicants

- 2) C.P. NO. 254/91 in O.A. NO.2139/88
1. J. Subramanian (Staff No.4298)
2. Mrs. Mukta Gaur (Staff No.4315)
3. A. K. Nandi (Staff No.4469)
4. S. N. Vohra (Staff No.4485)
5. Raghu Nath Pd. (Staff No.4559)
6. Y. L. Sharma (Staff No.4570)
7. Kamal Gaur (Staff No.4967)
8. S. K. Rawat (Staff No.5007)
9. Navendra Kumar (Staff No.5081)
10. S. K. Sharma (Staff No.5092)

Applicants

3) C.P. NO. 255/91 in O.A. NO. 1671/87
M.A. NO. 3718/94

1. Vidya Prakash Gupta (Staff No.5952)
Asstt. Engineer (Trg.), DTTC-MTNL,
10th Floor, Chandralok Building,
Janpath, New Delhi-110001.

2. K. K. Kapoor (Staff No.5953)
Asstt. Engineer, A.L.T.T.C.,
Ghaziabad-201001.

3. M. L. Jain (Staff No.5974)
Administrative Officer,
O/O General Manager,
M.T.N.L., K.L. Bhawan,
New Delhi-110001.

4. R. K. Dhawan (Staff No.5986)
Asstt. Engineer, A.L.T.T.C.,
Ghaziabad-201001.

5. Ram Nain Singh (Staff No.6023)
Asstt. Engineer, Telecom
Test Room, Rae Bareli-229010.

6. V. P. Marwah (Staff No.6049)
C.O. Cables, 1 Eastern Avenue,
Maharana Bagh,
New Delhi - 110065.

7. U. P. Sharma (Staff No.6125)
Asstt. Engineer, A.L.T.T.C.,
Ghaziabad-201001.

8. R. S. Dhillon (Staff No.6167)
Asstt. Engineer, A.L.T.T.C.,
Ghaziabad-201002.

9. R. K. Dass (Staff No.6178)
Asstt. Engineer,
O/O General Manager, MTNL,
Khursheedlal Bhawan,
New Delhi-110001.

10. Sudarshan Khanna (Staff No.6251)
C.O. Cables, B-6, 7/20,
Safdarjung Enclave,
New Delhi-110019.

11. H. C. Garg (Staff No.7030)
Asstt. Engineer,
Cable Maintenance-I,
Jaipur.

... Applicants

4) C.P. NO. 256/91 in O.A. NO. 1597/87

1. R. S. Jouhari (Staff No.4419)
S & T.O. Grade-I, T.R.C.
Khursheedlal Bhawan,
New Delhi.

2. Randhir Bhattacharya (Staff No.3403)
Asstt. Engineer, Telecom Training
Centre, Jabalpur-482001.

3. S. N. Prasad (Staff No.4161)
Asstt. Engineer, A.L.T.T.C.,
Ghaziabad-201002.

4. O. P. Khullar (Staff No.4175)
S & T.O. Grade-I,
T.R.C. Khursheedlal Bhawan,
New Delhi-110001.

5. R. B. Gupta (Staff No.4321)
S & T.O. Grade-I,
T.R.C. Khursheedlal Bhawan,
New Delhi-110001.

6. P. K. Chandra (Staff No.4322)
S & T.O. Grade-I,
T.R.C. Khursheedlal Bhawan,
New Delhi-110001.

7. D. R. Mahajan (Staff No.4357)
Asstt. Engineer, A.L.T.T.C.,
Ghaziabad-201002.

8. R. P. Anand (Staff No.4374)
S.D.O. Phones (I),
Rajpath Telephone Exchange,
Shastri Bhawan,
New Delhi - 110001.

9. T. S. Arora (Staff No.4378)
Asstt. Engineer, O/O D.E.(Planning),
MTNL, New Delhi-110050.

10. K. L. Bhatia (Staff No.4393)
Asstt. Engineer, A.L.T.T.C.,
Ghaziabad-201002.

11. S. B. Lal (Staff No.4468)
Asstt. Engineer, A.L.T.T.C.,
Ghaziabad-201002. ... Applicants

5) C.P. NO. 257/91 in O.A. NO. 1599/87
M.A. NO. 3722/94

1. Daljit Kumar (Staff No.5088)
Commercial Officer (Coordn.),
Mahanagar Telephone Nigam Ltd.,
K.L.Bhawan, New Delhi-1.

2. K. K. Aghi (Staff No.4606)
Asstt. Engineer, (CP),
O/O D.B.M.(P),
Eastern Court,
New Delhi.

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3. K. L. Srivastava (Staff No.4854)
Asstt. Engineer, A.L.T.T.C.,
Ghaziabad-201002.
4. J. C. Kohli (Staff No.5001)
Commercial Officer (SS),
M.T.N.L., K.L.Bhawan,
New Delhi-110001.
5. D. C. Gulwani (Staff No.5024)
Asstt. Engineer (Cables),
Chanakyapuri Exchange,
New Delhi.
6. S. S. Rajwar (Staff No.5067)
Asstt. Director (Trg.),
O/O Director General,
Sanchar Bhawan, New Delhi.
7. Vijay Kr. Gupta (Staff No.5077)
S & T.O. Grade-I,
T.R.C. Devika Towers,
Nehru Place, New Delhi.
8. R. C. Bhutani (Staff No.5113)
Commercial Officer (RN),
M.T.N.L., K.L.Bhawan,
New Delhi-110001.
9. D. P. Verma (Staff No.5142)
Asstt. Engineer, A.L.T.T.C.,
Ghaziabad-201002.
10. Abnashi Lal (Staff No.5169)
Commercial Officer (RS),
M.T.N.L., K.L.Bhawan,
New Delhi-110001.
11. K. C. Saraiya (Staff No.6858)
Asstt. Engineer, Telecom,
Training Centre,
Jabalpur-482001. ... Applicants

6) C.P. NO. 258/91 in O.A. NO. 2141/88

1. S. S. Arora (Staff No.5241)
A.D. (ESM-3), 405-Telecom.
Directorate, Dak Tar Bhawan,
New Delhi.
2. Navendra Kumar (Staff No.5346)
A. E. (Computer),
2nd Floor, Tak Building,
Eastern Court, Janpath,
New Delhi.
3. H. K. Arora (Staff No.4917)
A.D. (ESV), 3rd Floor,
Dak Tar Bhawan,
New Delhi-110001.

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4. D. B. Girhotra (Staff No.5395)
S.D.O. (P) Delhi Gate Exchange,
Asaf Ali Road, New Delhi.

5. Harcharan Jit Singh (Staff No.5934)
A.D. (ESY), 405 Dak Tar Bhawan,
Ashok Road, New Delhi.

6. P. C. Joshi (Staff No.5946)
A.E. (Computer), 2nd Floor
Dak Building, Eastern Court,
New Delhi.

7. Harbans Singh (Staff No.6021)
A.E. (Computer), 8th Floor
Nehru Place Telephone Exchange,
New Delhi-19.

8. T. R. Khanna (Staff No.6032)
A.E. (Computer), 8th Floor
Nehru Place Telephone Exchange,
New Delhi-19.

9. Tek Chand (Staff No.6058)
S.D.O. (P) 228, Exchange
Laxminagar Telephone Exchange,
Delhi.

10. V. P. Sehgal (Staff No.6118)
A.D. (ESP) 405, Dak Tar Bhawan,
Patel Chowk, New Delhi.

11. D. K. Aggarwal (Staff No.6208)
S.D.O. (P) Connaught Place
Telephone Exchange Bldg.,
New Delhi.

12. Akhilesh Kumar (Staff No.6227)
A.E. (Computer) 8th Floor,
Nehru Place Telephone Exchange,
New Delhi-19.

13. O. P. Prashar (Staff No.6261)
A.E. (Spl. Services),
6th Floor Kidwai Bhawan,
New Delhi. Applicants

7) C.P. NO. 60/93 in O.A. NO. 2238/91
Vijay Kumar Kapoor S/O Jagdish
Lal Kapoor, R/O 543/1-A,
Jheel Kuranja, Delhi-51.
Working as J.T.O. in the
office of the D.G.M. (X),
Room No. 119, M.T.N.L.,
E. Court, New Delhi. Applicant

8) C.P. NO. 160/93 in O.A. NO. 1758/91

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1. Rambir Singh
J.T.O. (JE-02186)
in the Office of DE (ITN),
MTNL, Delhi.
2. Anup Kumar (Staff No.02383)
JTO in deputation to TCIL,
Nehru Place, New Delhi.
3. Mukesh Chand (Staff No.JE-02175)
A.E. Officiating in the Office of
CGM 'NTR' Kidwai Bhawan,
New Delhi.
4. P. K. Shukla (Staff No.JE-02201)
A.E. Tech Library,
616 Sanchar Bhawan,
New Delhi.
5. Vinod Kumar (Staff No.JE-02205)
A.E. Sanchar Bhawan,
New Delhi.
6. Raj Pal Singh (JE-02284)
JTO in the office of
DE (PSDN) MTNL, New Delhi.
7. D. K. Sharma (Staff No.01572)
AE in the office of CGM 'NTR'
New Delhi.
8. Anil Kumar (Staff No. JE-02312)
JTO CXL in the Office of DE CXL
Kidwai Bhawan, New Delhi.
9. Sudarshan Bhattacharya (Staff No.JEO 2382)
AE Officiating in Sanchar Bhawan,
New Delhi.
10. Virendra Kumar (Staff No.JE 01999)
AE Officiating in the Office of
CGM 'NTR' Kidwai Bhawan,
New Delhi.
11. Nirmal Singh (Staff No.JE-02311)
JTO (E 10 B) office of DE, E 10 B
Installation, Rajouri Garden,
MTNL, New Delhi.
12. P.D. Singhal (Staff No.02572)
JTO (CMG) in the office of D.E.
Tech, Tax Building, New Delhi.
13. S. B. Garg (Staff No.2004)
AE Officiating in the office of
AM (4D), Kidwai Bhawan,
New Delhi.

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14) Shankar Lal Vashisth (Staff No. JE-02142)
J.T.O. O/D in the office of
DE O/D, Laxmi Nagar,
Delhi. Applicants

9) C.P. NO. 211/94 in O.A. NO. 445/92

15) K. K. Nagrath S/O Mohan Lal,
B-2/B-233 Janakpuri,
New Delhi.

25) G. L. Chhabra S/O S. L. Narain Das,
40105, Syed Sarai, Rewari (Haryana)
(TES Group 'B' Officers employed
under the Department of Telecom,
Sanchar Bhawan, New Delhi) Applicants

10) C.P. NO. 279/94 in O.A. NO. 2417/91

16) Jai Bhagwan Jain,
8/355, Rajender Nagar Sector-3,
Sahibabad (UP) - 201005.

2. A. L. Bathla S/O Mohan Lal Bathla,
R/O A-1/234, Lawrence Road,
New Delhi-110035
(Both employed as Asstt. Engineers
under the Deptt. of Telecom,
Sanchar Bhawan, N.Delhi.) Applicants

(By Sr. Advocate Shri Govind Mukhoty with
Shri Naresh Kaushik, Adv. for Applicants in
C.P. Nos. 253-258/91 & C.P. No. 160/93.
Shri D. S. Choudhary, Adv. for applicant
in C.P. No. 60/93.
Shri D. R. Gupta, Adv. for applicants in
C.P. Nos. 211/94 & 279/94)

Versus

1. Shri N. Vittal, Secretary,
Ministry of Communication,
Sanchar Bhawan, New Delhi.

2. Shri N. Vittal, Chairman,
Telecom Commission,
Sanchar Bhawan,
New Delhi. Respondents
(in C.P.s 253-258/91)

3. Shri H. P. Wagle,
Chairman, Telecom-cum-
Secretary, Min. of
Communication,
Sanchar Bhawan, N.Delhi. Respondent
(in C.P.s 60,160/93)

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4. R. K. Takkar,
Secretary,
Ministry of Communications,
Sanchar Bhawan, New Delhi
and Director General, Telecom/
Chairman, Telecom Commission,
Sanchar Bhawan, New Delhi. Respondent
(in C.P.s 211,
279/94)

(By Advocate Shri M. M. Sudan)

ORDER

Shri Justice S. C. Mathur —

The grievance of the applicants in these contempt applications is identical and, therefore, they have been heard together and they are being disposed of by this common judgment.

2. The applicants were initially recruited as Engineering Supervisor (re-designated as Junior Engineer) in the Department of Telecommunications, Government of India. The next higher post to which they could look forward for promotion was the post of Assistant Engineer. For this promotion they were required to pass the qualifying examination provided for in paragraph 206 of the Post and Telegraph Manual Volume-IV. This examination was earlier called Telegraph Engineering Service Class-II Qualifying Departmental Examination. It has been re-designated as Telegraph Engineering Service Group 'B' Qualifying Examination. The applicants passed the examination in different years. The Department promoted qualified Junior Engineers as Assistant Engineers not on the basis of the year in which they passed the qualifying examination but on the basis of their seniority in the grade of Junior Engineer. Two

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aggrieved Junior Engineers, namely, Parmanand Lal and Brij Mohan, filed separate writ petition Nos. 2739 and 3652 of 1981 in the High Court of Allahabad at Lucknow Bench. They prayed that they may be declared promoted from a date earlier to the date on which those who qualified later were promoted. They also claimed fixation of salary in the higher grade and payment of pay and allowances of the higher grade. The writ petitions were allowed vide judgment and order dated 20.2.1985 and a writ of mandamus was issued commanding the Government authorities to promote the said officers with effect from the date prior to the date when an officer who qualified later was promoted. Mandamus was also issued to fix seniority accordingly and pay arrears of salary and allowances. Against this judgment, the Government preferred Special Leave Petition before their lordships of the Supreme Court which was dismissed on 8.4.1985. The judgment of the Allahabad High Court was implemented in respect of Parmanand Lal and Brij Mohan, but the benefit of that judgment was not extended to others similarly placed. Parmanand Lal and Brij Mohan were granted notional promotion and their pay was re-fixed and they were also assigned seniority in the higher grade. On coming to know of the implementation of the said judgment in respect of Parmanand Lal and Brij Mohan, the applicants preferred representation claiming the same benefit for themselves. There was no response. They accordingly filed original applications in this Tribunal and got reliefs. The applicants' case is that although they have got relief in the O.A.s, the

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judgments of the Tribunal have not been implemented. This is the disobedience alleged by the applicants.

3. So far as the Tribunal is concerned, the first judgment appears to have been given on 7.6.1991 in O.A. No. 1599/87 connected with O.A. Nos. 1125/88, 1673/87, 2141/88, 2139/88, 1597/87 and 1671/87. In these O.A.s the main reliefs claimed by the applicants were — (1) the applicants be extended the benefit of the judgment of the Allahabad High Court and they be declared to have been promoted to the post of Assistant Engineer with effect from the date prior to the date of promotion of any person who passed the departmental examination subsequent to them; (2) their seniority in Telegraph Engineering Service Group 'B' be re-fixed; and (3) they may be paid arrears of salary. These seven O.A.s were decided by a common judgment dated 7.6.1991. The operative portion of this judgment reads as follows :-

"In view of the various judgments passed by this Tribunal in accordance with the spirit of the judgment given by the Hon'ble High Court of Allahabad as upheld by the Hon'ble Supreme Court of India in the case of Shri Parmanand Lal and Shri Brij Mohan, we direct that the benefits of the said judgment be extended to the applicants herein also and they shall be deemed to have been promoted with effect from the date prior to a date of promotion of any person who passed the departmental examination subsequent to the applicants and their seniority be revised in T.E.S. Group 'B' cadre. They shall also be entitled to refixation of their pay with effect from the said date. This order shall be implemented within a period of three months from the date a copy of this order is received by the respondents."

4. O.P. No. 253/91 is by 13 persons who were applicants in O.A. No. 1673/87 which was also decided

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by judgment dated 7.6.1991. The complaint of these applicants is that the judgment of the Tribunal has not been complied with although the period fixed for compliance has expired.

5. C.P. No. 279/94 is by two persons, namely, Jai Bhagwan Jain and A. L. Bathla. It arises from O.A. No. 2417/91 decided on 26.12.1992. The judgment in the O.A. is based on judgment dated 7.6.1991 passed in the seven O.A.s referred to above and the judgment dated 18.11.1992 passed in O.A. No. 444/92 - B. P. Singh & Ors. vs. Union of India & Ors. The operative portion of the judgment reads thus -

"In view of the aforesaid judgment in OA 444/92, the learned proxy counsel for the respondents submits that similar orders could be passed in these cases as well, particularly because the counsel for the respondents in OA 444/92 and the counsel for the respondents in all these cases is the same. In the light of the foregoing, these OAs are disposed of with the direction that the applicants, in these OAs, may also be considered by the respondents for giving benefits due to them as per the judgment dated 7.6.91 in the case of Daljit Kumar & Anr. vs. UOI & Anr. (supra) if the applicants herein are similarly placed and are entitled to the same benefits as per the judgement."

By this judgment the following O.A.s were also disposed of with the same relief -

O.A. Nos. 2156/91, 2161/91, 2163/91, 2623/91, 196/92, 364/92 and 365/92.

6. C.P. No. 211/94 has been filed by two persons, namely, K. K. Nagrath and G. L. Chhabra and it arises from O.A. No. 445/92 decided on 18.11.1992. The judgment in this case is a short one and reads as follows :-

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"...The learned counsel for the respondents said that they were implementing the orders given in the judgment in OA 1599/87 (Daljit Kumar & Anr. vs. UOI & Anr.) and the said related OAs. They agreed to extend the benefits to the applicants also provided they are similarly situated."

In view of the above, the application is disposed of finally."

7. The operative portion of the judgment of which disobedience is alleged in C.P. Nos. 254, 255, 256, 257 and 258 of 1991 is the same as reproduced in paragraph 3 hereinabove.

8. C.P. No. 60 of 1992 is by one person only who was one of the applicants in O.A. No. 2238 of 1991 - Yashveer Singh & Ors. vs. Union of India. The operative portion of the judgment dated 10.7.1992 reads as follows:-

"Accordingly, we order and direct that the respondents shall redraw the seniority list for the purpose of promotion from the post of Junior Telecom Officer to the next higher grade of T.E.S. Group 'B', placing the applicants who have passed the departmental qualifying examination earlier than those who passed the said examination subsequently in accordance with Rule 206 of the P&T Manual Vol. IV, without disturbing their inter-se-seniority in their group and consider the applicants for promotion from the date their next junior was promoted to the grade of T.E.S. Group 'B'. In view of the magnitude of the consequential reliefs arising from the large scale revision of seniority and consequent retrospective promotions, we are of the opinion that the applicants shall be fixed retrospectively on a notional basis without payment of back wages. We order accordingly. The O.A. is disposed of as above."

9. C.P. No. 160 of 1993 arises from O.A. No. 1758 of 1991 which was decided on 23.10.1992. The operative portion of the judgment reads as follows :-

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"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 20.2.1985 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 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 promotion, 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."

10. In view of the above orders, the plea of the respondents applicants was that the L were required to do three things - (1) revise the seniority in the grade of TES Group 'B', (2) re-fix the pay, and (3) give to the applicants consequential benefits including promotion to the higher post. The applicants pleaded that none of the three benefits have been given to them.

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11. When the applications came up before the Bench on 17.11.1993, it was prima facie satisfied that contempt has been committed by the respondent. It accordingly required the applicants to submit memorandum of draft charges. Memorandum of draft charges was filed. After hearing detailed arguments on the draft charges filed, the Tribunal framed following charges against the respondent, N. Vittal, on 4.1.1994 :-

"(1) You have wilfully disobeyed the directions of the Tribunal by not according seniority to the ten applicants, namely, S/Shri S. N. Prasad, D. P. Khullar, K. C. Sariya, S. C. Gupta, B. C. Aggarwala, M. L. Oberoi, Inderjit, Hans Raj, K. L. Mehta and H. C. Garg on the basis of the date of passing the TES Group 'B' examination as directed by the Tribunal.

(2) That you have wilfully disobeyed the orders of the Tribunal in the aforesaid cases by issuing or maintaining or giving effect to order No. 232-32/87, STG.II dated 30.4.1992 withholding payment of arrears to the following thirteen applicants, namely, S/Shri S. N. Prasad, S. B. Lal, S. N. Gupta, Rakesh Srivastava, J. P. Gupta, B. C. Aggarwala, D. R. Mahajan, D. S. Dhiren, K. L. Bhatia, R. K. Dhawan, S. K. Rawat, R. N. Singh, and R. P. Anand.

(3) That you have further wilfully disobeyed the order of the Tribunal aforesaid by issuing order No. 19-2/93-STG-II dated 23.9.1993 by which you directed that promotion should not be granted to the applicants on the ground that the period of service in the feeder category cannot be counted from the respective deemed dates of promotion."

12. Against the above charges, respondent, Vittal, filed his reply annexing therewith several decisions of the Tribunal and the Supreme Court. The plea raised

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on behalf of the respondent is that the orders of the Tribunal stand modified by the judgment of their lordships of the Supreme Court dated 13.5.1994 passed in Civil Appeal No. 1814/93 connected with other appeals, Telecommunication Engineering Service Association (India) and Anr. vs. Union of India & Anr. and benefits flowing from this judgment have been given to all the concerned employees. It is, therefore, submitted that the contempt applications are liable to be dismissed and contempt notice is liable to be discharged.

13. We have heard the learned counsel for the parties and perused the record.

14. It is apparent from the judgment of their lordships of the Supreme Court that several writ petitions/ original applications came to be filed in different High Courts and Benches of the Tribunal. The Benches of the Tribunal primarily followed the directions given by the Lucknow Bench of the Allahabad High Court in Parmanand Lal's case (supra). However, in granting the final relief, all the orders were not expressed in identical language. In certain cases, the consequential benefit allowed the applicants included also payment of arrears of salary consequent on re-fixation of seniority and pay. Such a benefit was not allowed in the Tribunal's judgment dated 22.4.1992 passed in O.A. No. 2407/88 connected with 28 other O.A.s. The Tribunal observed, "We hold that the applicants are entitled to the benefit of the judgment of the Allahabad High Court dated 20.2.1985

(AO)

except that in the event of re-fixation of seniority and notional promotion with retrospective effect they would be entitled to re-fixation 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 backwages." This view of the Tribunal has been affirmed by their lordships of the Supreme Court. Their lordships ^{have} observed, "We are of the view that the Tribunal was justified, in view of the peculiar circumstances of the case and enormity of the problem dealing with ten thousand persons, in declining to grant backwages except with effect from the date they actually worked on the higher post." Their lordships thus endorsed the view taken by the Tribunal in its judgment dated 22.4.1992.

15. In the Tribunal's order dated 22.4.1992, following findings were also recorded :-

"(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..."

16. What is now required to be seen is whether the respondent has complied with the directions of the Tribunal contained in order dated 22.4.1992 which has been affirmed by their lordships of the Supreme Court.

(A1)

17. In his reply dated 2.9.1994, the respondent has asserted that since the passing of the Tribunal's order referred to hereinabove, the respondent has issued 14 seniority lists in order to give full effect to the directions issued by the Tribunal. Earlier, orders had been passed for payment of backwages to certain officers but the payment of backwages was subsequently withheld on account of later orders passed by the Tribunal. In view of the fact that the denial of backwages has been upheld by their lordships of the Supreme Court, the respondent cannot be said to be guilty of disobedience of the order by denying backwages or by withholding them.

18. In re-fixing the seniority, some of the applicants in the original applications have lost their seniority. This has been explained by pointing out that while re-fixing dates of promotion, not only the applicants but the entire cadre had to be considered and reservation in favour of Scheduled Castes and Scheduled Tribes also had to be given effect to. It is by considering the claim of those who had not obtained judicial orders and also of SCs and STs that some of the applicants have lost their seniority. The respondent cannot be faulted for following this procedure. A large number of petitions/applications had been filed in the High Courts and the Tribunal and the order obtained by the applicants/petitioners in these cases could not be implemented in isolation. All persons senior to those who obtained judicial orders had to be considered while giving benefit of the judicial order to the applicants/petitioners. In our opinion, therefore, no disobedience has been

(A2)

committed by the respondent in revising the dates of promotion and in re-fixing the seniority. The respondent also cannot be said to be guilty of disobedience if he has not allowed backwages to any applicant.

19. It was strenuously submitted by the learned counsel for the applicants that the consequential benefit allowed to the applicants included the benefit of promotion to the higher post. Promotion is an entirely different aspect, and cannot be claimed as a matter of right. The only right available in respect of promotion to higher post is of consideration. Once the applicants' seniority has been re-fixed, they will have to be considered for promotion to higher post in accordance with the criteria prescribed by the recruitment rules. The applicants may have grievance when despite their entitlement to be considered for promotion they are excluded from consideration.

20. In view of the above, we are of the opinion that by now the directions of the Tribunal have been complied with and the notice issued to the respondent is liable to be discharged. The contempt applications are accordingly consigned to record and the notice issued is hereby discharged.

(P. T. Thiruvengadam)
Member (A)

(S. C. Mathur)
Chairman

/as/

Attested
(Suresh Kumar)
572151
Court Officer

3.7.95