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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1617/93

New Delhi this the 16th Day of December, 1993

THE HON'BLE MR. J.P. SHARMA, MEMBER (J)
THE HON'BLE MR. B.K. SINGH, MEMBER (A)

1. Shri Bijendra Kumar,
Son of Shri Net Ram
Resident of A-163 Gali No. 4,
Kabir Nagar,
Delhi-110 094
2. Shri D.P. Singh,
Son of Shri Bharat Singh,
Resident of A-169, Gali No. 4
Kabir Nagar,
Delhi-110 094
3. Shri Hardeo Singh,
Son of Shri Niranjan Singh,
Resident of 158, Sector VI, R.K. Puram,
New Delhi.
4. Shri L.P. Singh,
Son of Shri Babu Ram
Resident of 1/11063 Street No: 7-F,
Subhash Park (West),
Shahdara,
Delhi.
5. Shri R.N. Sharma,
Son of Shri M.L. Sharma,
Resident of 2/9 Prem Gali,
Babarpur,
Delhi-110 032.

... Petitioners

(By Advocate Shri D.S. Choudhry)

Vs

1. Union of India, through
Secretary, Ministry of Communication-
Chairman of Telecommunications Commission
Department of Telecommunication,
20 Ashok Road,
New Delhi-110 001
2. The Assistant Director General (STG)
Department of Telecommunications,
20 Ashok Road,
New Delhi-110 001.

... Respondents

(By Advocate None)

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O R D E R
Hon'ble Mr. J.P. Sharma, Member (J)

The applicants No. 1 * 2 are Assistant Engineers and Applicant No. 3 & 5 are Junior Telecom Officers in the Department of Telecommunications, Ministry of Telecommunication. The applicants jointly filed this application aggrieved by the seniority list (A.1 List 1985) dated 31.12.1992 of the junior telecom officers on the basis of the year of passing the qualifying examination. The applicants have also challenged Rule 206 of the P&T Manual Volume IV to the extent that the chain in the seniority list of the Junior Telecom Officers on the basis of passing the qualifying examination for Group 'B'

The applicants claimed for the grant of the following reliefs:

1. The provisions of Rules 206 of P&T Manual, Volume IV be struck down to the extent that it relates to the seniority of the JTOs. The relevant part of the said rule sought to be struck down is reproduced herein below:

"Sub-rule 2 :.....

but the engineering Supervisors who pass the qualifying examination earlier will rank senior as a Group to those who pass the examination on subsequent occasions

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i.e. the officials who pass the examination held in 1956 will rank as en block senior to those who pass in 1957. Their seniority inter se will, however, be according to their seniority in the cadre of Engineering Supervisors."

2. set aside and quash the seniority list circulated by the respondents vide letter No. 16-10/92-STG-II dated 31.12.1992

or

in the alternative the seniority of the applicants be placed above all the candidates recruited against the year 1974 irrespective of their year of passing the qualifying examination i.e. above Serial Nos. 1662 in ALLIST-85.

3. The respondents be directed to retain the seniority lists maintained earlier by them in respect of the JTOs eligible for promotion to Group 'B' post.

A notice was issued to the respondents who did not contest the application. Even after admission the notice was again issued but none appeared. The registry, therefore, listed the matter before the Bench for further direction. Since we have heard another application in which the similar facts are involved OA No. 2919/92 Mata Prasad Dubey and Ors. Vs. union of India so we also propose to dispose of this case.

The applicants earlier entered the service in the Department of Telecommunication as Junior Engineers/Engineering Supervisors. Now the applicants have been redesignated as Jr. Telecom Officers (JTOs). The applicant Nos. 1&2, 3&4 and 5 were appointed to the service in November, December 1974 and January 1975 respectively. The next promotion of JTOs is to Group "B" prior to 1981 there was no direct recruitment for the post of Group "B" officers and all the posts were filled by way of promotion from JTOs. In the year 1981, new rules were framed which provided 2/3rd of the posts by way of promotion from JTOs and 1/3rd from Group "B" posts by recruitment by limited competitive departmental examination of JTOs. The JTOs have to pass a qualifying examination for promotion to Group "B" and in accordance with the Rule 206 of P&T Manual Volume IV. Sub-clause II of Rule 206 of P&T Manual Volume IV is quoted below:

"Sub-clause 2: but the Engineering Supervisors who pass the qualifying examination earlier will rank senior as a Group to those who pass the examination on subsequent occasion i.e. the official who pass the examination held in 1956 will rank as en bloc senior to those who pass in 1957. Their seniority inter se will, however, be according to their seniority in the cadre of Engineering Supervisors"

The respondents, however, did not hold the qualifying examination during the year 1981 to 1984 and 1986 it was conducted in 1985. The grievance of the applicant is that they were not allowed to appear in the examination held in the year 1980. Parmanand Lal & Brij Mohan filed writ petition

before the High Court, Allahabad regarding their seniority where the respondents were questioned in not following the provisions of Rule 206 of the P&T Manual Volume IV in fixing their seniority. The applicants have challenged the validity of Rule 206 as well as the seniority list drawn on 31.12.1992.

Regarding the vires of Rule 206 of P&T Manual the same had already been considered by the Hon'ble Supreme Court in the Appeal filed by the Union of India against the judgement of Allahabad High Court in the case of Parmanand Lal and Brij Mohan. The seniority of Parmanand and Brij Mohan Lal petitioners in the Writ petition was ordered to be considered in the light of passing the Rule 206 of P&T Manual Volume IV examination and those who have passed the examination earlier shall be adjudged senior to those who pass in the subsequent years. Their seniority, however, was changed from the date of their passing the examination. This rule, however, provides that inter se seniority will not be changed to their disadvantage. However, the grievance of the applicants is that the rule does not speak the year of recruitment. Earlier to the decision a case of Parmanand Lal & Brij Mohan respondents were following the practice keeping the year of recruitment in view i.e. by placing the JTOs who passed the qualifying examination subsequently while the JTOs who pass the qualifying examination earlier against the particular year of recruitment. By this it is argued by the learned counsel that the JTOs recruited against the particular year who passed the examination subsequently shall become junior to those JTOs who were recruited against the same year who passed the said examination earlier. Thus, there is ^{nexus} ~~an~~ between Rule 206 directly with the year of recruitment.



We have heard the learned counsel for the parties at length and have gone through the record. In fact similar cases are pending before the Hon'ble Supreme Court where the issue involved is also relates to a challenge to Rule 206 of P&T Manual Vol. IV. The Hon'ble Supreme Court vide its order dated 14.5.1993 in SLP no. 8544/93 has directed that all such cases pending before any of the Benches of the Central Administrative Tribunals be kept in abeyance till the matter decided by the Apex Court. In view of the above facts and circumstances the application is disposed of with the direction that Registry to list the same after the decision in the aforesaid SLP by the Hon'ble Supreme Court.

(B.K.Singh)

Member(A)_

(J.P. Sharma)

Member(J)

Mittal