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CENTRAL ADMINISTRATIVE TRIBUNAL, ALAABAD

BENCH ALAABAD

DATED : ALAABAD THIS THE 3<sup>rd</sup> DAY OF August 1995

Original Application No. 1271 of 1993

Om Prakash Vohra,  
Superintendent Telegraph Traffic,  
Meerut Division, Meerut Cantt.....applicant.  
(by Advocate Sri Hari Shanker Srivastava)

Versus

1. Union of India, through Secretary,  
Ministry of Communication, New Delhi.
2. Director General Telecommunication,  
Sanchar Bhawan, New Delhi.
3. The Chief General Manager, Telecommunication,  
U.P. Circle, Lucknow.

..... Respondents.

(By Advocate Shri Amit Sthalker)

C O R A M :- Hon'ble Mr. T. L. Verma, Member-J,  
Hon'ble Mr. S. Dayal, Member-A.

ORDER

(By Hon'ble Mr. T. L. Verma, Member-J)

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1. This application under Section 19 of the Administrative Tribunals Act, 1985 has been filed for issuing a direction to the respondents to step up the pay of the applicant on par with the pay of <sup>his</sup> junior Shri P. Panjiara, Telegraph Traffic Superintendent, with effect from 1.9.1989.

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2. The admitted facts of the case are that the applicant was appointed as Telegraphist on 10.6.1962. Thereafter, on his passing the competitive examination, he was appointed as T.T.S. Grade 'C' on 7.1.1974 and to T.T.S. Group 'B' on 27.10.1986 and <sup>was</sup> appointed as Superintendent Incharge D.T.O. Meerut on 21.1.1987. His pay was fixed to Rs. 2120/- in the scale of pay of Rs. 2,000-3,500/-. Whereas Sri P. Panjiara was appointed as Telegraphist on 28.8.1962 in Bihar Circle. He was appointed to T. T.S. Group 'c' on 9.1.1974 and T. T. S. Group 'B' on 20.7.1989. The pay of Shri P. Panjiara, however, has been fixed at Rs. 2,675/- with effect from 1.9.1989 in the scale of pay of Rs. 2,000/- 3500/-. It is also admitted fact that in All India Gradation list, of A.T.T.S. circulated under DOT No. 353-3/86-STG-III dated 15.05.1986, the applicant has been placed at Sr. No. 41 and Sri P. Panjiara at Serial No. 54. From the facts admitted, it is evident that the applicant was senior at all levels to his junior Sri P. Panjiara.

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3. The applicant submitted representation dated 17.11.82 for stepping up his pay immediately after he learnt that his junior Sri P. Panjiara was drawing more pay than him. The grievance of the applicant is that the respondents have not responded to his legitimate request for stepping up of his pay on par with the pay of his junior Sri P. Panjiara, hence this application.

4. The respondents have resisted the claim of the applicant, inter-alia, on the ground that Sri P. Panjiara was given officiating promotion with effect from 22.5.1980 before his regular appointment in T.T.S. Group 'B' on the basis of his Circle seniority of Bihar Circle and he was drawing at Rs. 2,600/- on the date of his regular promotion to T.T.S. Group 'B'. Accordingly his pay was fixed on Rs. 2,675/- with effect from 1.9.1989 in the pay-scale of Rs. 2,000/- - 3500/-. It is stated that there has been no infraction of Rules.

5. Promotion to T.T.S. Group 'B' is made from T.T.S. Group 'C'. From paragraph 8 of the counter affidavit, it is clear that an All India Seniority List of all T.T.S. Group 'C' is maintained in the D.O.T. for considering their promotion to T.T.S. Group 'B' on regular basis. It, therefore, followed that promotion on adhoc or regular basis should be made in accordance with the seniority of T.T.S. Group 'C' maintained at All India level. Shri P. Panjiara in our opinion should not have been given officiating promotion in T.T.S. Group 'B' by reckoning his seniority on Bihar Circle, because such a course has resulted in ignoring the claim of such of the T.T.S. Group 'C' employees who were senior to him. In case any eventuality necessitating appointment in Group 'B' Post in Bihar Circle had arisen in the interest of administration, then in that case fair play demanded that such appointment should, in the first instance, have been offered to those who were senior to Shri P. Panjiara although they working in different Circles. The post should

have been offered to Shri Panjiara only after his seniors had declined to accept the offer. This admittedly not been done. The omission on the part of the respondents to follow this rule of natural justice and fair play has resulted in unfair advantage to Sri P. Panjiara and loss to those who were senior to him in the All India Seniority List. The respondents have not thus been fair in giving officiating promotion to Sri P. Panjiara with effect from ~~the~~ 22.5.1980 ~~date in 1980~~ by superceding the claim of the applicant to such promotion. We therefore, view this action of the respondents as arbitrary.

6. We have already noticed above that ~~it is~~ Shri P. Panjiara, who was junior to the applicant ever since he joined the services and that the applicant, is drawing <sup>more</sup> ~~less~~ pay than the <sup>applicant</sup> ~~senior~~ junior, in the grade T.T.S.Group 'B'. According to the provisions contained in F.R.22(c) and D.G.(P & T)'s instructions as also the Ministry of Finance O.M.No.T-2(10)-E-III(A)-62 dated 26.6.65 the pay of the senior has to be stepped up at the level of the pay of the junior drawing higher pay. These instructions have been issued to remove the anomaly caused by the juniors drawing higher pay for reasons such as junior officiating in higher post without giving such opportunity to senior and sanctioning advance increments to the junior or for some allied reasons. These provisions, however, will not apply to cases where the senior draws less pay than his junior as a result of the disciplinary proceedings or shifting of date of increment on account of the seniors remaining on extra ordinary leave for a long spell. In the instant case, no disciplinary proceedings <sup>is</sup> ~~have~~ been initiated or ~~were~~ pending against the applicant.

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It is also not the case of the respondents that the date of increment of the applicant had been shifted back for his having remained in extra ordinary leave for a long spell. There was, thus, absolutely no valid reason for giving ~~the~~ pay ~~to~~ the senior at a lower level than the junior.

7. A similar question came up for consideration before the Principal Bench of the Central Administrative Tribunal in O.A.No.782 of 1994. In the said case, the applicant, who was senior to Sri P.Panjiara (one of the respondent before us) in the All India Seniority List filed O.A.No.782 of 1994 for stepping up his pay at par with that of Sri P.Panjiara. Learned Single member by his order dated 18.8.94 has allowed the application and issued a direction to the respondents to step up the pay of the applicant at the level of pay of Sri P. Panjiara. The case in hand is in pari-materia with the above case decided by Principal Bench.

8. In view of the discussions made above and having regard to the circumstances and Rule position I find and hold that the pay of the applicant should be stepped-up in level with the pay of his junior Shri P. Panjiara.

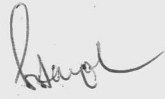
In the result, this application is allowed and the respondents are directed to fix the pay of the applicant with effect from 1.9.1989<sup>by</sup> stepping it up in level of the pay of Sri P. Panjiara who is junior to the applicant and also to pay the applicant all consequential monetary benefits including the arrears of pay. This order should be complied

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with within a period of three months from  
the date of receipt of the order.

There will be no order as to costs.

  
A.M.

  
J.M.

VKP/-