

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 7TH DAY OF MARCH, 2002

Original Application No. 1926 of 1994

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

Chandra Prakash, a/a 58 years, Son of
Late Behari Lal, resident of 59/3
Labour Colony, Govind Nagar, Kanpur,
presently employed as Selection Grade
Telegraph Assistant Grade III
Central Telegraph Office, Mall
Road, Kanpur.

... Applicant

(By Adv: Shri M.K.Upadhyा)

Versus

1. Union of India through the Secretary
Ministry of Communications,
New Delhi.
2. Director General, Tele-
Communications, Directorate of
Tele-Communications, Sanchar
Bhawan, Janpath, New Delhi.
3. Chief General Manager, Telecom
U.P.Circle, Hazrat Ganj, Lucknow.
4. General Manager, Telecom,
Kanpur telephone District,
Mall Road, Kanpur.

... Respondents

(By Adv: Shri Amit Sthalekar)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA u/s 19 of A.T.Act 1985 the applicant
has prayed for a direction to the respondents to grant
the applicant the benefit of promotion from Grade III
to Grade IV from the scale of Rs1600-2660 to Rs2000-3200
w.e.f the retrospective date of 20.10.1990 from which
such benefits were granted to the juniors of the applicant.

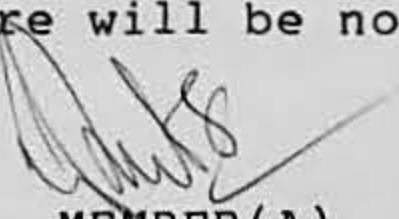
The facts of the case are that applicant Chandra Prakash was serving as Selection Grade Telegraph Assistant Grade III in central Telegraph Office, Mall Road, Kanpur. He was initially appointed as Telegraph Assistant in the year 1957. He was promoted as Telegraph Assistant Grade II in November 1983. Under the Biennial Cadre Review Promotion Scheme the applicant was further promoted to the Selection Grade Telegraph Assistant Grade III on 8.12.1990. The claim of the applicant is that he was entitled for promotion to grade IV under the B.C.R.P.Scheme from the date his juniors were promoted in the said cadre. It is submitted that ⁹⁸ the applicant had completed the services of 26 years, he was entitled for promotion but under the wrong interpretation of the BCRP Scheme, the applicant was denied promotion. It is also submitted that the Principal bench of this Tribunal in case of 'Smt. Santosh Kapoor and Others Vs. Union of India and Others in OA 1455/91, held that for calculating the period of 26 years of service the entire period of service rendered in different cadre shall be calculated. The judgement of the Principal bench was upheld by Hon'ble Supreme Court. It is claimed that the applicant is entitled for promotion from the date his juniors were promoted.

The learned counsel for the applicant has also placed reliance in the direction of the Department of Tele Communication dated 12.2.1997 wherein it has been provided that the officials who have been promoted to Grade IV according to old procedure i.e. on the basis of their interse seniority in the Grade III and who are not found eligible for promotion to Grade IV on the basis of their basic cadre seniority will not be reverted and for these officials additional posts required shall be deemed to have been created.

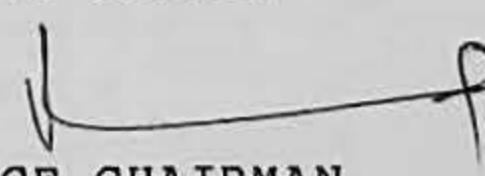
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The learned counsel for the respondents, however, submitted that the applicant retired on 30.11.1994 and he is not entitled for the relief claimed in this OA, though the legal position stated by the learned counsel for the applicant could not be disputed. The counsel for the applicant, on the other hand, submitted that OA was filed on 28.11.1994 i.e. well within the period of one year from the date of retirement.

We have carefully considered the submissions of the counsel for the parties and in our opinion applicant is legally entitled for the benefit of the BCRP Scheme for promotion to Grade IV which ~~was~~ denied to him on account of wrong interpretation by the department. The legal position now stand settled after the judgement of Principal Bench in Smt. Santosh Kapoor's case (Supra) which has been upheld by Hon'ble Supreme Court. The memo dated 12.2.1997 has been issued on the basis of the same. In the circumstances, in our opinion applicant is entitled for relief. However, as he has not worked on the promotion post he will not be entitled for any arrears of pay. However, his pension shall be recalculated and refixed treating him as has been promoted in Grade IV from the date his juniors were promoted. There will be no order as to costs.



MEMBER(A)



VICE CHAIRMAN

Dated: 7th March, 2002

UV/