

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 446/92

TAX NO.

DATE OF DECISION 30.7.1997

Smt.K.R.Patiwala & Ors.

Petitioner

Mr.M.S.Trivedi

Advocate for the Petitioner [s]

Versus

Union of India & Ors.

Respondent

Mr.Akil Kureshi

Advocate for the Respondent [s]

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The Hon'ble Mr.V.Radhakrishnan : Member (A)

The Hon'ble Mr.T.N.Bhat : Member (J)

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ? *Y*
2. To be referred to the Reporter or not ? *Y*
3. Whether their Lerdships wish to see the fair copy of the Judgment ? *NO*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *Y*

1. Kalaben
2. Bharatkumar
3. Gangaram
4. Balkrishan
5. Prahladbhai
6. Jayeshkumar
7. Ashwin

: Applicants

(Advocate: Mr. M. S. Trivedi)

Versus

1. Union of India
Through: The Director,
Dept. of Tele.
Sanchar Bhavan, New Delhi.

2. Chief General Manager,
Telecom, Gujarat Telecom
Circle, Ashram Road,
Ahmedabad.

3. The General Manager,
O/o The G.M. Telecom District,
Ahmedabad.

: Respondents

(Advocate: Mr. Akil Kureishi)

: J U D G M E N T :

O.A. 446/92

Date: 30.7.97

Per: Hon'ble Mr. V. Radhakrishnan : Member (A)

The applicants were working as Upper Division Clerks with the respondents. The respondents issued orders for restructuring of Accounts Staff in the Organised Accounts Cadres. In the scheme, the UDCs were redesignated as Junior Accountants and selection grade UDCs were redesignated as Senior Accountants. This scheme was made effective from 1.4.1987. The post of Senior Accountants were to be filled in cent per cent by promotion on the basis of seniority-cum-fitness from Junior

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Accountants with three years of regular service and who had passed the departmental confirmatory examination/Departmental examination for promotion of LDCs to Junior Accountants. The grievance of the applicants relates to their non-promotion to the post of Senior Accountant. In this connection it is mentioned that the Ahmedabad Telephone District was formed as separate unit from Gujarat Telecom Circle w.e.f. 1.4.1984. Those who had opted for Ahmedabad Telephone District were transferred to that unit according to their seniority as the optees were more in number compared to the number of posts available in that unit. This was because of persons working in that unit were to continue there only without any further transfer while those who remained in Gujarat Telecom Circle carried transfer liability to any place in Gujarat State. In view of the above, many employees opted for transfer to Ahmedabad Telephone District to avoid further transfer. The total sanctioned posts were distributed among the Gujarat Telecom Circle and Ahmedabad Telephone District. After bifurcation, the two units became independent of each other. Separate gradation lists were made maintained and promotions were made in the respective units as per the respective gradation list. The grievance of the applicants is that their juniors working in the Gujarat Telecom Circle were

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promoted as Senior Accountants while they were not given promotion. According to them the respondents should have transferred about 36 posts of UDCs while actually only 22 UDCs and 3 LDCs posts were transferred to the Ahmedabad Telephone District. As a result the applicants could not get promotion. Accordingly, they claim the following reliefs:-

- "(A) That the Hon'ble Tribunal be pleased to admit this application,
- (B) That the Hon'ble Tribunal be pleased to quash and set aside action on the part of the respondents regarding not transferring necessary and justified posts to A.T.D. at the time of bifurcation of the department,
- (C) That the Hon'ble Tribunal further be pleased to declare that the applicants are entitled/eligible for the promotions of Senior Accountant since 1987 and grant all consequential benefits to the applicants.
- (D) Any other and further reliefs that the Hon'ble Tribunal may deemed fit may be given to the applicants."

The respondents have filed their written statement and contested the contention of the applicants. According to them at the time of restructuring more senior employees opted for transfer to Ahmedabad Telephone District and they were transferred to the available posts in that unit on seniority basis. The junior employees did not opt for transfer and they continued in the Gujarat Telecom Circle. Separate gradation lists were then prepared for the two units separately.



When the question of promotion came up, persons senior in the gradation list of Gujarat Telecom Circle were promoted against the vacancies therein and similarly persons who were senior in the Ahmedabad Telephone District were promoted against the vacancies in that Unit. The promotions depended on availability of vacant posts of Senior Accountant, which were sanctioned by the Department of Telecom. The applicants did not come within the zone of promotion compared to the number of vacancies available in Ahmedabad Telecom district while their erstwhile juniors who opted for Gujarat Telecom Circle came to be promoted as they had become senior in the gradation list of Gujarat Telecom Circle.

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They have also contested the applicants' contention that ~~ten~~ less number of posts of Senior Accountants were transferred to Ahmedabad Telephone District. The respondents contend that the sanctioned posts were distributed among the two units as per requirement of work. Accordingly, no injustice has been done to the applicants. They also state that the application is time barred as they had filed the application after eight years. They also state that the two units have been merged as one unit and combined seniority list has been prepared and the applicants could be considered as per the combined seniority list. In actual fact, the applicants were promoted to the cadre of Senior Accountants as per the order dated 11.1.1994.

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Accordingly, they have prayed for rejection of the application.

We have heard Mr. M. S. Trivedi and Mr. Akil Kureshi, learned counsels for the applicants and the respondents. Mr. Kureshi produces the documents on record. It is quite clear from that the applicants had chosen to opt Ahmedabad Telephone District to avoid transfer liability. As pointed out by the respondents more senior persons had opted for this unit for the same reason, naturally more senior persons came to Ahmedabad Telephone District and comparatively junior persons remained in Gujarat Telecom Circle. Separate gradation lists were prepared for two units and promotions were made to the posts of Senior Accountants on the basis of the respective seniority lists. The total number of posts of Senior Accountants available were distributed within the two units as per the requirement of work. At the time of promotions for the posts of Senior Accountants the gradation list for the respective units was followed and the posts of Senior Accountants being non-selection post, the employees were promoted on seniority-cum-fitness. As more senior persons had opted for Ahmedabad Telephone District and the posts being limited, the applicants could not come within the zone of consideration of promotion. On the other hand the employees were junior to the applicants in the combined gradation list become eligible for promotion in the separate gradation list made for Gujarat Telecom Circle. Therefore, they became eligible for promotion to the posts of Senior

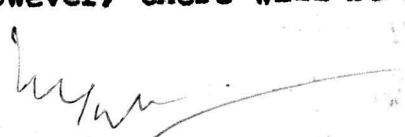
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Accountants and they had chance and were promoted even though they were junior in the combined seniority list before bifurcation. The applicants had opted for posting in the Ahmedabad Telephone District for their benefit in order to remain in the non-transferrable post. They have also not given any justification in relation to their demand for the transfer of more number of posts of Senior Accountants to Ahmedabad Telephone District. The distribution of posts between the two units is purely an administrative matter depending on the work load and accordingly the applicants have not shown any basis or rule that more posts should have transferred to Ahmedabad Telephone District. Moreover, there is no basis in their contention that they should have been promoted after completion of three years service as Junior Accountants. This is only an enabling clause and no right accrued to the applicants for immediate promotion after completion of three years. The promotions depended upon their seniority in the particular unit and availability of posts. After the re-merger of the two units, the applicants become senior in the combined seniority list and they were accordingly promoted.

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In view of the foregoing, we do not find any merit in the application and the same is dismissed. However, there will be no order as to costs.


(T.N. Bhat)
Member (J)


(V. Radhakrishnan)
Member (A)