

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. /573/93
T.A.NO.

DATE OF DECISION 09-4-1999

R.C.Shah

Petitioner

Mr.P.H.Pathak

Advocate for the Petitioner [s]

Versus

Union of India & ors.

Respondent

Mr.B.N.Doctor

Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. V.Ramakrishnan : Vice Chairman

The Hon'ble Mr. A.S.Sanghavi : Member (J)

JUDGMENT

- 1, Whether Reporters of Local papers may be allowed to see the Judgment ? *✓*
- 2, To be referred to the Reporter or not ? *✓*
- 3, Whether their Lerdships wish to see the fair copy of the Judgment ? *✓*
- 4, Whether it needs to be circulated to other Benches of the Tribunal ? *✓*

R.C.Shah,
11, Sundervan Society,
Ashram Road, Usmanpura,
Ahmedabad. Applicant

Advocate Mr.P.H.Pathak

Versus

1. Union of India, Through :
Chief General Manager,
Gujarat Telecom Circle,
Khanpur,
Ahmedabad.
2. Assistant General Manager,
Gujarat telecom Circle,
Khanpur,
Ahmedabad. Respondents

Advocate Mr.B.N.Doctor

JUDGMENT
IN
O.A.NO. 573/93

Dt. 09.04.1999

Per Hon'ble Mr.A.S.Sanghavi : Judicial Member

The applicant challenges the order dated 07.11.1984 passed by the Assistant Director of the Telecom, Gujarat Circle, Ahmedabad re-fixing his date of confirmation from 01.03.1961 to

01.11.1962 and seeks direction that the respondents be asked to treat him as confirmed from 01.03.1961 with all consequential benefits with 18 % interest. According to the petitioner, he had joined the service as Station Assistant in the year 1959 and he was confirmed as Repeater Station Assistant vide the order dated 19.02.1965 w.e.f. 01.03.1961. He was thereafter placed in the selection grade scale of Rs.270- 350 w.e.f. 05.11.1972 vide order dated 23.05.1973. However, without assigning any reasons and without giving any opportunity of being heard to the petitioner, the Telecom authorities had revised the confirmation date of the petitioner and his confirmation date was re-fixed as 01.11.1962. According to the petitioner this has resulted into loss of the benefits of selection grade which he would have availed of w.e.f. 01.03.1971 after completion of 10 years of the service. He was therefore constrained to approach the Chairman of the Telecom Commission, New Delhi on dated 30.12.1990 but his representation remained un- answered till 29.06.1992 when he was informed that as per the departmental rules he could have been posted substantially as RSA only after the completion of training and therefore his claim of posting substantially as RSA prior to the date of training was not tenable. The petitioner has therefore preferred this O.A. before the Tribunal seeking to set aside the order of re-fixing his confirmation date from 01.03.1961 to 01.11.1962 and also seeking consequential benefits with 18 % interest.

2. The respondents have resisted the application vide their reply contending inter alia that the petition is barred by delay and laches and as such is not maintainable . It is also further contended that the applicant appeared for the trade test examination in April 1961 and qualified for absorption from the date, the final result of which was declared on

16.10.1961. The DOPT, New Delhi had revised vide their letter No. 81-25/62- NCG dated 08.01.1969 , the date of regular appointment as RSAs was to be treated only after the completion of the training and not from the date of the appointment and as such the date of regular appointment as RSAs was fixed from 01.03.1961 to 05.11.1962. Thereafter again vide Telecom Directorate Communication's letter No. 5-59/83-NCG dated 26.09.1983 the date of appointment of all the qualified untrained RSAs trade test held in April 61 was modified to 01.11.1962. The applicant was accordingly informed that he could have been posted substantively as RSA only after completion of training as per the departmental rules and therefore his claim of posting substantively as RSA prior to the date of training was not tenable and the confirmation date re- fixed was properly fixed.

3. We have heard the learned counsels of both the parties at length and we are satisfied that this is a case which requires to be rejected only on the ground of delay and laches. It is settled position of law that a party who sleeps over for his right cannot be heard to say that he had not been heard and order is passed behind his back . In the instant case the petitioner knew right from the date of award of selection grade to him that he has been given the selection grade from 05.11.1972 and not from 01.03.1971 as claimed by him in this petition. This order placing him in the selection grade of Rs. 270- 350 was passed on dated 23.05.1973 and is produced at Annexure A/5 . This petition is moved by the petitioner with the contention that had his date of confirmation not modified from 01.03.1961 to 01.11.1962 he would have completed 10 years of service on 01.03.1971 and thereby he would have become entitled to be placed in selection grade w.e.f. 01.03.1971. This contention of the petitioner was no

merit can be seen from the very fact that this order placing him in the selection grade was passed as far back as on 23.05.1973. He had not challenged this order nor had he made any representation against this order. He has retired from the service on attaining the age of superannuation in November 1987 and till then he had not made any representation against the grant of selection grade to him. Further more the order re-fixing the confirmation date has been passed on 07.11.1984 and except sending a representation on 02.05.1985 and subsequently a reminder dated 30.12.1990, the petitioner has not taken any action for redressal of his grievance. This O.A. is moved by him on 30.9.1993 i.e. more than 9 years after the order of the date of re-fixation of his confirmation. It is quite obvious that this application suffers from the vices of laches and delay. The supreme Court has consistently laid down that where the government servant sleeps over the promotion of his junior or remains inactive for redressal of his rights, then he cannot succeed in his action. In the case of P.S. Sadashiv Swamy Vs. State of Tamil Nadu, reported in AIR 1984 SC 2071, it is laid down that where a government servant slept over the promotions of his juniors over his head for 14 years, then approached the high court with writ petition challenging the relaxation of relevant rules in favour of the juniors, the writ petition is liable to be dismissed in limine. Such an aggrieved person should approach the court at least within 6 months or at the most a year of the promotion of his juniors.

3. Thereafter again in the case of Malcom Lawrence V/s Union of India, reported in 1976 SCC 155 it is laid down as under:

" It is most essential that any one who feels aggrieved with an administrative decision affecting one's seniority should act with due

diligence and promptitude and not sleep over the matter. Raking up old matters like seniority after a long time is likely to result in administrative complications and difficulties. It would therefore appear to be in the interest of smoothness and efficiency of service that such matters should be given a quietus after lapse of some time."

Again in the case of K.R.Mudgal & ors. v.s R P Singh reported in AIR 1986 SC 2086 it is laid down that the petition challenging the inter se seniority filed 18 years after issuance of first seniority list, the same deserves to be dismissed on the ground of laches alone.

Then in the case of Government of Andhra Pradesh Vs. M.A. Kareem reported in 1991 (2) All India Service Law journals, 14- challenge to the seniority list was made after 13 years of the appointment and the persons prejudicially affected by this claim were also not impleaded. Rejecting the claim of the seniority, the supreme court laid down that the courts and the tribunals should be slow in disturbing the settled affairs in a service for such a long period.

The ratio of all these decisions leave no room for doubt that even in the genuine cases if the party concerned has slept over his right then the settled position should not be disturbed. What the petitioner in the instant case has sought is to change the date of his confirmation from 01.11.1962 to 01.03.1961. This would not only affect his own confirmation date but would also prejudicially affect the rights of several other employees who were given the selection grade along with him and who

were recruited along with him. Significantly the petitioner has not joined the persons who would be adversely affected by this order and therefore also this petition cannot be allowed. We have ~~not~~ hesitation in coming to the conclusion that the petition is barred by delay and laches and deserves to be rejected on this ground alone. Hence the following order.

Order

The application is rejected without any order as to costs.

A. S. Sanghavi

[A.S.SANGHAVI]
Member [J]

Order
4/4/1982

[V.RAMAKRISHNAN]
Vice Chairman

SSN ***

CENTRAL ADMINISTRATIVE TRIBUNAL, DELHI

Application No.

081573/93

of 19

Transfer application No.

Old Writ Pet. No.

CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided).

Dated: 03/5/99

Countersigned:

Section Officer/Court Officer.

ms/ll

ms
Signature of the
Dealing Assistant.

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

CAUSE TITLE

04 | 573 | 93

NAME OF THE PARTIES

R. C. Shal

VERSUS

6-02 803

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

C.A.T./Judicial Section.

Submitted :

Original Petition No 573
of 1993

Miscellaneous Petition No _____
of _____

Shri R C Shah Petitioner(s)
versus

UOI Raw Respondent (s)

This application has been submitted to the Tribunal by
Shri P H Daltake.

Under Section 19 of the Administrative Tribunal Act, 1985.
It has been scrutinised with reference to the points mentioned in
the check list in the light of the provisions contained in the
Administrative Tribunal Act, 1985 and Central Administrative
Tribunals (Procedure) Rules 1985.

The application has been found in order and may be given
to concerned for fixation of date.

The application has not been found in order for the reasons
indicated in the check list. The applicant advocate may be asked
to rectify the same within 14 days/draft letter is placed below
for signature.

ASSTT.

All
30/9/93

S.O.(J)

Bhagw
30/9/93

D.R.(J)

Bhagw
1-10-93

Court

OA 51 549193

Filed by Mr. P.H. Pathak
Learned Advocate for Petitioners
with second set & 2 copies copy served/not served to
other side

Original
30/9/93

OB/for
Dy. Registrar C.A.T.O
Ahmedabad Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT
AHMEDABAD.

ORIGINAL APPLICATION NO. 5493 OF 1993

R.C. Shah

..Applicant

Vs.

Union of India

..Respondents

I N D E X

<u>Sr.No.</u>	<u>Annex.</u>	<u>Particulars</u>	<u>Page.</u>
1.	-	Memo of the application	1 to 11
2.	A	Copy of the circular issued by the Director General dt. 31-7-62	12
3.	A/1	Copy of the Extract of the relevant list	13
4.	A/2	Copy of the letter dt. 7-11-84	14
5.	A/3	Copy of the representation dated 2-9-85	15 & 16
6.	A/4	Copy of the minutes of dtd-12-1-87	17 & 18
7.	A/5	Copy of the promotion order dt. 23-5-73 and its modification dt. 5-7-90	19 to 21
8.	A/6	Copy of the appeal dtd. 30-12-90.	22 & 23
9.	A/7	Copy of the letter dated 24/29-6-92	24
10.	A/8	Copy of the letter dated 29-7-93	25

Date : - 30/9/93

Ahmedabad.

(P.H. Pathak)
Advocate for applicant.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

ORIGINAL APPLICATION NO.

OF 1993.

I. Applicant

: R. C. Shah

11, Sundervan Society

Ashram Road, Usmanpura

Ahmedabad-14

II. Respondents

: 1) Union of India

Notice to be served through

Chief General Manager

Gujarat Telecom Circle

Khanpur, Ahmedabad

2) Asstt General Manager (Staff)

Gujarat Telecom Circle

Khanpur, Ahmedabad

III. Order under challenge : Inaction on the part of the

respondents to correct the

seniority of the applicant

after the decision by the

General Manager Telecom about

correcting the date of

confirmation of the applicant

and the decision of the Asstt

Director Telecom (Staff) for

General Manager Telecom

changing the date of confirmation

of the applicant vide his

letter dt. 7.11.84 and the

oral reply by the respondent

No.2 with regard to modification

of correct date of confirmation

of the applicant pursuance to

his letter dt. 29.7.93 when the

applicant has attended his office.

IV. Jurisdiction & V. Limitation : The applicant declare that the subject matter of this application is within the jurisdiction of this Tribunal and limitation prescribed under sec. 21 of the Administrative Tribunal Act.

VI. Facts of the case :

1. That the present application is required to be filed against the total arbitrary exercise of power by the respondents changing the date of confirmation of the applicant i.e. from 1.3.61 to 1.11.62, without giving any opportunity of being heard to the applicant and even after the correct facts were pointed out to the General Manager in the meeting of the union to correct the date of confirmation of the applicant, the same is not implemented. The said action on the part of the respondents is in flagrant violation of principle of natural justice and fair play and being arbitrary and discriminatory, violative of Art.14 & 16 of the Constitution of India.
2. It is submitted that the applicant has initially joined the service of the respondent deptt as Operator at Surat in 1948. That the applicant was promoted to the post of Repeater Station Asstt as officiating from July '57. It is submitted that in the year 1961, the respondents have conducted the trade test for the post of Repeater Station Asstt and the applicant was found successful in that trade test. That pursuance to the circular issued by the Director General Post & Telegraph, New Delhi vide letter dt. 31.7.62, it was decided that that officiating Repeater Station Asstt who qualify in the first trade test from the post of Repeater Station Asstt held in 1960

be treated as distinct group of recruits and their seniority be fixed below 1959 recruits and above 1961 recruits. Copy of the circular issued by the Director General dt. 31.7.62 is annexed and marked as Annexure 'A' to this application.

3. It is submitted that the important aspect of the matter is that it was the first trade test when the applicant was sent for the test which was conducted in the year 1961 as there was no sufficient RSA staff were available and all persons cannot be trained in one batch. That there were certain officiating RSA satisfactorily working for more than 1 year and therefore it was decided to send for trade test of RSA to such officiating employees first and the qualified employees will be given date of confirmation between 1959-61. That as per the abovementioned letter, whosoever pass in the first trade test, his seniority is required to be fixed below 1959 recruit and above 1961 recruit. As per that letter of Director General, the confirmation was awarded to the applicant vide letter dt. 19.2.65 issued by the office of the Postmaster General, Bombay Circle, Bombay. The applicant is at Sr.No.61 in the said list. Extract of the relevant list is annexed and marked as Annexure A/1 to this application. It is submitted that subsequently the office of the General Manager, Telecommunication, Gujarat Circle has vide his letter dt. 7.11.84, issued a letter revising the seniority of the employees whereby the date of confirmation of the applicant was changed i.e. from 1.3.61 to 1.11.62. Copy of the letter dt. 7.11.84 is annexed and marked as Annexure A/2 to this application. It is pertinent to note that before affecting the said change, the General Manager Telecommunication, Guj. Circle has not given any opportunity of being heard to the applicant and therefore

the applicant has made immediately a representation to the respondents informing that it is a gross injustice to him and therefore the same is required to be rectified. Copy of the representation made by the applicant dt. 2.9.85 is annexed and marked as Annexure A/3 to this application.

4. It is submitted that the said item of changing of the date of confirmation and revising the seniority of the employees and particularly of the applicant was taken up by the union and negotiation was going on with the respondent administration. That in the negotiation meeting with the union, item No. 8602 per pertains to the applicant and the decision was taken by the General Manager to rectify the mistake and issue suitable order in light of the earlier letter in favour of the applicant. Extract copy of the minutes dt. 12.1.87 is annexed and marked as Annexure A/4 to this application. It is submitted that the said decision was not implemented by the respondent authorities and therefore the union has after three months, reminded on 28.4.87 requesting to implement the decision of item No. 8602 with regard to irregularity in confirmation of the applicant. It is submitted that in between the respondents have issued the order of promotion of higher selection grade. The applicant was at Sr.No.8 and his date is shown as 5.11.72. That the said orders were revised by the respondents vide order dt. 5.7.90 i.e. after the decision of the General Manager in abovementioned item with the union. Copy of the promotion order dt. 23.5.73 and its modification dt. 5.7.90 are annexed and marked as Annexure A/5 to this application.

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It is pertinent to note that in the said order dt. 23.5.73 it is specifically pointed out that the post of selection grade was sanctioned and available vacant with PMG, Ahmedabad from 29.3.71 and the applicant has also completed 10 years of service on 1.3.71 and therefore there was no justification to deny the applicant of the benefits of higher selection grade on completion of 10 years from the date of his confirmation. But unfortunately, the respondents have taken the decision *ex parte* regarding changing the date of confirmation of the applicant and the other employees and therefore the injustice was done to the applicant.

5. It is submitted that on one hand the respondents have not taken care to implement the decision in the union meeting by the General Manager and on the other hand, by modifying the order of giving the selection grade to the applicant, the date was changed for 5 days. That aggrieved by the said decision and arbitrary exercise of power by the respondent authority, the applicant was constrained to approach to the Chairman, Telecom Commission, Sanchar Bhavan, New Delhi vide letter dt. 30.12.90. Copy of the appeal of the applicant dt. 30.12.90 is annexed and marked as Annexure A/6 to this application. That in the said appeal, the applicant has pointed out all the relevant aspects of his service and the decision taken with regard to the first candidate who has passed the first trade test etc. That after the appeal of the applicant, the Asstt General Manager, Ahmedabad, has also sent a letter to the Section Officer, Personal Grievance, Deptt of Telecom, New Delhi vide letter dt. 24/29.6.92, Copy of which is annexed and marked as Annexure A/7 to this application. That thereafter several reminders were sent by the applicant requesting to decide his case. It is submitted that in the meantime ~~the applicant has not received from~~

the applicant has retired from service with effect from Nov. '87 but he was agitating his grievance and the injustice done to him by the respondents.

That ultimately, the Asstt Director Telecom (Staff) Gujarat Circle, Ahmedabad has addressed a letter to the applicant on 29.7.93 informing the applicant to see personally to settle the issue with regard to the injustice done to the applicant for promotion as selection grade RSA. That with the letter dt. 29.7.93, two other letters dt. 9.1.92 and the reference which is annexed and as ANNX. A/7 were also given to the applicant. Copy of the letter dt. 29.7.93 is annexed and marked as Annexure A/8 to this application.

6. It is submitted that pursuance to that letter dt. 29.7.93, the applicant has approached to the Office of the Asstt Director Telecom (Staff) and has discussed the issue. That the applicant was orally informed by the Dy. General Manager Telecom, Ahmedabad, that to do the justice to the applicant and to revise the earlier order are not within the jurisdiction ~~to the applicant and to~~ of his office, and it can be done only by the Director of Telecom, New Delhi and therefore the applicant has to wait till the decision from the end of the Director of Telecom, New Delhi. That the applicant has requested him to give such writing to enable him to do the needful in the matter but the same was refused by him and therefore the applicant has to approach to this Hon'ble Tribunal by way of this application against the total arbitrary and discriminatory treatment by the respondents in fixing the date of confirmation of the applicant and fixing the same without any justification and without giving

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an opportunity of being heard to the applicant and therefore the same is required to be quashed and set aside and the applicant is required to be considered as confirmed with effect from 1.3.61 and pursuance to that the applicant is required to be granted all consequential benefits.

7. It is submitted that the impugned decision on the part of the respondents changing the date of confirmation of the applicant from 1.3.61 to 1.11.62 is *ex facie* arbitrary, illegal and required to be set aside because before passing any adverse order against the applicant, it is the duty and obligation on the part of the respondents to follow the principle of natural justice and fair play. That the respondents have not given any opportunity of being heard to the applicant before changing the date of the applicant which adversely affect the seniority, pay and pension benefits of the applicant nor there is any justification available to the respondents for the same and therefore the decision of the respondents changing the date of confirmation of the applicant is required to be quashed and set aside and the respondents are required to be directed to consider the applicant as confirmed from 1.3.61 i.e. the original date and grant all consequential benefits with 18% interest.

8. It is submitted that so far the date of confirmation of the applicant is concerned, the same was rightly fixed i.e. from 1.3.61 as per the order of Director General Post & Telegraph, New Delhi. That ^{as} the applicant has qualified in the first trade test for the post of Repeater Station Asstt, his seniority is required to be fixed below the recruitee of 1959 and above 1961 recruitee. That the first trade test was conducted and the applicant has qualified in that trade test and at that time, the applicant was officiating as Repeater Station Assistant. Therefore,

as per clause 1 of Annx. 'A' the confirmation date of applicant was rightly fixed and there was no necessity or justification for changing the same by the respondents subsequently.

9. It is submitted that as stated above after issuance of the order of changing the date of confirmation of the applicant, the applicant has pointed out all the details to the respondent authorities and it was a clear case of non application of mind and being legal malafide, violative of Art. 14 & 16 of the Constitution of India. It was clearly pointed out by the Union to the General Manager in the meeting and the authority concerned was convinced and decided that the date of confirmation of the applicant is required to be modified. But unfortunately, thereafter reason best known to the respondents, the decision is not implemented and therefore the applicant has to approach to this Hon'ble Tribunal by way of this application.

10. It is submitted that lastly after the detailed representation of the applicant, the applicant was called by the respondent No. 2 for settlement of the issues which are raised by the applicant with regard to date of confirmation of the applicant. That the applicant has personally met the respondent No. 2 and he was aware about the case of the applicant. Therefore, he informed the applicant either the grievance of the applicant can be resolved by the Directorate or by the Hon'ble Tribunal, he has no authority correct the mistake with regard to the date of confirmation of the applicant. That the applicant has requested him to either send a detailed letter to the

Directorate and/or give written order to the applicant but unfortunately the same is not given to the applicant and there is no remedy available to the applicant except to approach to this Hon'ble Tribunal by way of this application.

11. Looking to overall circumstances of the case, the applicant is having strong prima facie case in his favour. The balance of convenience is also in favour of the applicant and admittedly the confirmation date of the applicant was changed without offering him an opportunity of being heard and without following any procedure of law and as there is no justification the same is required to be set aside. That the applicant has retired from service and therefore the change in the date of confirmation will affect the arrears paid to the applicant and the future pensionary benefits of the applicant and therefore also the interim relief prayed for in the application is required to be granted in favour of the applicant.

VII. Relief sought for :

In the abovementioned facts and circumstances of the case, the applicant pray that :

- (A) The Hon'ble Tribunal be pleased to declare the impugned action on the part of the respondent authorities changing the date of confirmation of the applicant i.e. from 1.3.61 to 1.11.62, as arbitrary, illegal, unconstitutional and be pleased to quash and set aside it and direct the respondents to consider the applicant as confirmed from 1.3.61 and grant all consequential benefits with 18% interest.
- (B) Be pleased to declare that as the applicant was qualified at the first trade test his confirmation from 1.3.61

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: 10 :

is correct and direct the respondents to treat the applicant as confirmed as RSA from 1.3.61 and grant all consequential benefits with 18% interest.

(B) Be pleased to declare that there is no justification available to the respondents to change the date of confirmation of the applicant and therefore it is the case of non application of mind and set aside it and direct the respondents to grant all consequential benefits to the applicant.

(D) Any other relief to which the Hon'ble Tribunal deems fit and proper in interest of justice together with cost.

VIII. Interim Relief :

(A) Pending admission and final disposal of the application be pleased to direct the respondents to consider the applicant as confirmed from 1.3.61 and to fix his pension accordingly.

(B) Be pleased to direct the respondents to consider the case of the applicant and place the reason order before the Hon'ble Tribunal within 15 days, in interest of justice.

(C) Any other relief to which the Hon'ble Tribunal deems fit and proper in interest of justice together with cost.

IX. The applicant has not filed any other application in any court including the Hon'ble Supreme Court of India with regard to subject matter of this application. The applicant has no other alternative remedy available except to approach this Hon'ble Tribunal by way of this application.

X. Details of Postal Order :

Postal Order No. 801242158 Dated 28/9/93
Issued by High Court Amount of Rs 50/-

XI. An index in duplicate containing the documents is produced herewith.

XII. List of enclosures as per above index.

Date : 20/9/93

Ahmedabad


(P. H. Pathak)
Advocate for the applicant

VERIFICATION

I, Shri Ratilal Chunilal Shah, adult, residence of Ahmedabad, do hereby verify that the contents of para 1 to 12 are true to my personal knowledge and I believe the same to be true and that I have not suppressed any material fact.

Date : 30/9/92

Ahmedabad

Ratilal

12

Annexure 'A'

Copy of Communication No. 81-25/62-NCG dated
31st July, 1962 from the Director General, Post
& Telegraphs, New Delhi to all heads of circles

Sub : Seniority of Officiating Repeater
Station Assistants who qualify in the
Trade Tests held in 1960 and 1962

1. It has been decided that the Officiating Repeater Station Assistants who qualified in the First Trade Test from the post of Repeater Station Assistant held in 1960 be treated as a distinct group of recruits and their seniority be fixed below 1959 recruits and above 1961 recruits.
2. Those who qualify in second Trade Test held in June 1962 should be adjusted against the vacancies reserved for departmental candidates of 1961. If number who qualify is in excess of the departmental quota suitable reduction may be made in the departmental quota in the next recruitment.

Endorsed by PMG Am. vide his No. SE-47 dated
at Ahmedabad the 31st Aug. 1962.

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Thomy

INDIAN POSTS AND TELEGRAPHS DEPARTMENT.

OFFICE OF THE POSTMASTER GENERAL, BOMBAY CIRCLE, BOMBAY-30 (BR)

Memo No: - AE-25/G.L. dated at Bombay the 19th February 1965-
Magha 1886 (Saka)

The following temporary Repeater Station Assistants are hereby substantively appointed as R.S. As. with effect from the dates and in the posts shown against them.

SL.	Name of the Official	Date of Appointment	Date of Confirmation	Particulars of the post against which confirmed
1.	Shri G.R. Rao	19-5-55	1-3-58	P.M.G. By. No. RE-40/Misc. XII/54/403-F dtd 11/10/58.
2.do...			
46.do...			
47.	Shri J.B. Modi	3-11-55	1-3-60	P.M.G. By. No. RE-40/Misc. XIV/43/352 dt. 13.5.60.
51.	...do....			
52.	P.M. Munshi	26-9-57	1-3-60	----do----
55.	V.G. Phadke	6.3.57	1-3-60	P.M.G. By. No. RE-40/Misc. XIV/41/351-F dtd. 13-9-60.
60.	...do...			
61.	R.C. Shah	25-8-57	1-3-61	P.M.G. By. No. RE-40/Misc. XV 8/858-F dtd 23-3-61.
71.	...do...			
72.	J.J. Oza	8-2-63	8-2-63	P.M.G. By. No. RE-40/Misc. XV/8/858-F/dt. 27-3-61.
97.	...do...			

Sd/- K.V. Raman
(K.V. Raman)
Director of Telegraphs,
B O M B A Y.

No: - E-50/XIII/111 dated at Ahmedabad the 24th Feb. 65.

Copy forwarded to :-

- (1) The Asstt. Engineer, Long Distance, Ahmedabad/Surat.
with spare copies for information and communication to the officials concerned.
- (2) S.D.O. Phones, Ahmedabad/S.D.O. Telegraphs, Baroda with spare copies for information and communication to the official concerned.
- (3) H.C.M./D.A.E.Dnl. Office Ahmedabad for necessary action.
- (4) Personal files of the officials concerned.
- (5) E-82 File

True copy
J

Indian Posts And Telegraphs Department
 Office of the General Manager Telecommunications
 Gujarat Circle, Ahmedabad-380009

Memo No. SF.4/Confm./78/44

dt. AM the 7.11.1984

In accordance with the instructions contained in DG P&T New Delhi letter No. 5-59/83-NCG dtd. 26.9.1983, the General Manager Telecommunications, Gujarat Circle, Ahmedabad, is pleased to re-fix the seniority of the following Transmission Assistants, as shown against their names. These RSAs were untrained approved departmental candidates as on 1.11.1962 on the basis of examination/selection held in 1961 and 1962.

These TAs are treated as having been appointed as RSAs on regular basis with effect from 1.11.1962. Their seniority is refixed accordingly and they would be eligible for all the subsequent benefits based on their revised seniority. ✓

Sl. No.	G/No. 1980	G/No.	Name	Dt. of appointment	Revised date of appointment	Re- marks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
<u>1961 Recruitment</u>						
1.	9	9	Shri P.M. Munshi	5.11.62	1.11.62	
2.	11	11	" N.T. Thawani	5.11.62	1.11.62	
3.	12	12	" K.T. Noticewala	6.11.62	1.11.62	
4.	13	13	" R.D. Bhatt	5.2.63	1.11.62	
5.	14	14	" R.C. Shah	5.11.62	1.11.62	
6.	15	15	" J.J. Oza	5.11.62	1.11.62	
7.	17	17	" P.U. Desai	5.5.63	1.11.62	
8.	18	18	" H.G. Oza	5.5.63	1.11.62	
9.	20	20	" J.M. Vaghela	18.8.63	1.11.62	
<u>1962 Recruitment</u>						
1.	21	21	Shri J.R. Barodawala	6.8.63	1.11.62	
2.	22	22	" L.S. Solanki	6.8.63	1.11.62	
3.	23	23	" H.V. Dave	6.8.63	1.11.62	
4.	24	24	" K.O. Seeda	6.8.63	1.11.62	
5.	25	25	" M.K. Nadotaria	6.8.63	1.11.62	
6.	26	26	" D.M. Pandya	6.8.63	1.11.62	
7.	32	26-A	" J.S. Somani	13.8.72	1.11.62	

sd/-
 Asstt Director (Staff)
 for General Manager Telecom
 Gujarat Circle, Ahmedabad-9

Endst. No. LAM/E-6/ dtd- AM the 14.11.1984.

copy to : A.E. Carrier, Ahmedabad with 5 spare copies, for communication to the officials concerned.

2. A.F. LD Baroda with 4 spare copies, for communication to the officials concerned.
3. A.E. LD Rajkot with 4 spare copies, for communication to the officials concerned.

D.E.T. L/D., Ahmedabad.

True copy

JK

R. C. Shah
S.G.T.A. Ahmedabad 1
C/o A.E. Carrier, Ahmedabad

Dt. 2.9.85

To
The General Manager, Telecom, Gujarat Circle
Ahmedabad 380009

(Through : GMM Bombay)

sub : Irregularities in confirmation to
Promotion in service - case of
Shri R.C. Shah, SGTA, Ahmedabad

Ref : GMT GUJ Circle A'bad No.s
1) SE.4/Confirm/78/44 dt. 7.11.84
2) SE-4/11/V dt. 23.5.73

Respected Sir,

I, the undersigned, submit few lines for due consideration
and natural justice.

(1) I was confirmed as RSA w.e.f. 1.3.60 and my pay was
fixed by D.E.T. AM Nos. E.81/Corr/VI/170 dated 5.11.65.
I do not understand how I have been shown appointed
on 1.11.62/5.11.62 (Ref. Your orders SE.4/Confirm/78/44
dt. 7.11.84) when I was working offg. R.S.A. w.e.f.
July 1957.

Kindly look into matter and modify your orders and
entry in my service book.

Since I was confirmed as RSA on 1.3.61 I was qualified
for due promotion and PMG Ahmedabad has sanctioned four
permanent posts in RSA cadre on 29.3.71 (EST.13/422 dt.
29.3.71) Your office had issued orders on 23.5.1973
(SE.4-II/V dt. 23.5.73 of PMG AM) late, due to the reason
of administration best known to your good office. This
orders were effective from 5.11.72 instead of 29.3.71
prior to this.

I was consequently notified on 5.6.73. Thus I got a good loss due to late issue of orders for S.G. appointment, in pay fixation on account of 3rd Pay Commission award (effective from 1.1.73).

Our RDT By office has modified pay fixation orders (vide No. RD/Q/3001/70 dt. 5.12.73) effective from 7.2.73/22.7.73. This is also causing injustice, had I got SGRSA post on 29.3.71.

In addition to above irregularities, I received your orders vide your GMM BY NO. GM/GJ/3048/28/1.3.65 which is wrong. I request you kindly look into the matter and award justice at the earliest.

Soliciting your assistance.

Yours faithfully,

R. C. Shah
(R. C. Shah)

Encl. Xerox copies of

- i) DET AM NO. E-81/Corr/VI/170 dt. 5.11.65
- ii) PMG AM NO. SE-4-11/V dt. 23.5.73

April 1973
A

Government of India
Department of Telecommunications.

Office of the General Manager Telecommunications, Gujarat
Circle, Ahmedabad- 380 009.

MINUTES OF FOUR MONTHLY MEETING HELD ON 12.1.87
WITH BHARATIYA UNION

The following were present :-

<u>Administrative side</u>	<u>Union Representatives</u>
----------------------------	------------------------------

1. Shri H.P. Wagle, G.M.T. A'bad.	1. Sri N.O. Chunara C/P. BTEU III.
2. Shri S.C. Kakar, DGM(A) "	2. " P.D. Roal, C/S. BTEU- III. A'bad.
3. " G. Thiagarajan, CAO "	3. "
4. " S.P. Jaisinghani, AGM(S)& (R)	3. " N.N. Dave, C/S. BREU- C/P A'bad.
5. Mrs. Mercy B. Joseph, " ADI(A)	4. " H.R. Yadav, A/S. BTEU- LS Gr. &D'.

The G.M. Telecom welcomed all the Union Office Bearers ~~to the~~ the Four Monthly Meeting and discussion on the agenda items started.

8602 : Irregularities in confirmation of RSAs in Guj. Circle :

The cases of S/Shri R.C. Shah and P.M. Munshi, RSAs of DET Ahmedabad were examined in the light of DG's instructions. After pursuing the DG's instructions, the GM Telecom decided that the orders are applicable to these RSAs who are appointed during the period 1960-61 and not to those who are appointed prior to that. Accordingly suitable modification will be issued.

8701 : Refusal of meeting to the Secretary BTEU.III TDM Baroda :

The T.D.M. Baroda has agreed to give regular meetings. Item closed.

8702 : Non-installation of CTT position and over loading of working staff at Vadali Tele. Exchange. :

Estimate is sanctioned for one LET and O/G T-43 position. The GM Telecom desired that commissioning of board may be expedited. Justification of additional T.Os will be examined after commissioning of the board.

18

- : 2 : -

8703 : Abnormal delay in reimbursement of M/Bills of staff :-

The medical treatment case of Shri K.R. Parmar, S.S.(O), o/o TDE Baorda, being on individual, item is beyond the purview of the union.

Item not admitted.

Un fair labour practice by SDOT Amreli :

8704 : Smt. Alkaben D. Satapara, is a part time Sweeper but she has been ordered to work for 8 hours per day. part time sweeper is not supposed to work for 8 hours/day. The G.M. assured that the case will be examined in detail.

8705 : Suspension of promotional avenues for posting in the cadre of Cable Jointers and L.I.s.

The local officiating arrangements in short terms vacancies can be given at the discretion of the Divisional Heads, but they cannot be forced to make local officiating arrangements in each and every case. If the officials ordered on promotion after holding of DPC refuse to accept the promotion, refusal is normally accepted & in the resultant vacancies the local officiating chances can be given.

8706 : Promotional orders for LM to C/S and SI to LI against posts lying vacant due to retirement/death/resignation etc. :

The DPC for promotion of S.I.s to L.I.s will be held in Feb.'87. For filling up the posts of Cable Jointers, if any of officials having been selected and trained as Cable Jointer is available, he can be absorbed immediately, as we have same vacancies in some of the units. The union promised to furnish the details of candidates trained as Cable Jointer and awaiting regular appointment.

(D.H. APTE)

Asstt. General Manager (S),
o/o G.M.T. Gujarat Circle,
Ahmedabad-9.

No. : U-33/FMM/29 Dated at AM-9, the 5th Feb.'87

Copy forwarded to :-

1. Shri P.D. Roal, Circle Secretary, VTEU Cl.III, A-21, P&T Co. Op. housing society, Opp. Vastrapur Railway Station, Valsad, Ahmedabad-51.
2. The Director Telecom, Ahmedabad/Baroda-Rajkot.
3. Telecom District Manager, Baroda/Rajkot/Surat.
4. ADT(A)/(S)/AGM(S)/CAO/AGM(C), C.O. Ahmedabad.
5. Sr. PA to GM/PA to DGM(A)/(P)/Stend to AGM(S), Circle Office, Ahmedabad.

TM: 10/1

1

INDIAN POSTS & TELEGRAPH DEPARTMENT

OFFICE OF THE POSTMASTER GENERAL, GUJARAT CIRCLE, AHMEDABAD

Memo No. GE4-11/V dt. Ahmedabad 20 the 23.5.1973

On recommendations of the Departmental promotion committee, the following repeater station Assistants are hereby appointed as Selection Grade Repeater Station Assistants in the scale of Rs 270-10-290-15-350 with effect from the dates and against the posts noted against their names :-

Sl. No.	Name of R.S.A.	Name of Unit in which appointed as S.G.R.S.A.	Date from which appointed	Post against which appointed
1.	Shri N.L. Manchharmani	A.E. Carrier Ahmedabad	8.6.1972	Post fallen vacant due to confirmation of Shri R.P. Dave as E.S.
2.	" J.B. Modi	-do-	2.6.72	Post fallen vacant due to the confirmation of Shri H.H. Mehta as E.S.
3.	" P.M. Munshi	-do-	5.11.72	Post fallen vacant due to confirmation Shri M.P. Thaker as E.S.
4.	" V.G. Phadke	A.E. Long Dist. Surat	2.6.72	Post fallen vacant due to confirmation of Shri N.D. Oliver as ES
5.	" N.T. Tharani	D.ET. Bhavnagar	1.6.72 15.6.72	PMG Bombay No. RE 97/SG/ RSA 2 dt. 15.6.72
6.	" K.T. Notiawala	A.E. Long Dist. Surat	6.11.72	PM.G. Ah'd No. Est. 13-4-2 dt. 29.3.71
7.	" R.B. Bhatt	DET Rajkot	5.2.73	-do-
8.	" R.C. Shah	AE Carrier Ahmedabad	5.11.72	-do-
9.	" J.J. Oza	A.E. Long Dist. Rajkot	5.11.72	-do-
10.	" G.H. Jiandani	DET Jamnagar	15.11.71	Post fallen vacant due to officiation of Shri T.S. Vyas as ES w.e.f. 15.11.71

Shri G.H. Jiandani is appointed as S.G. R.S.A. on purely officiating capacity in the post fallen vacant due to officiation of Shri T.S. Vyas as Eng. Supervisor. He is liable for reversion to his original post of R.S.A. in case Shri T.S. Vyas becomes S.G.R.S.A.

sd/-
Director of Telegraph
Gujarat Circle,
Ahmedabad-380020

copy for information and necessary action to :-

1. The Regional Director Telecommunication Western Region C.T.O. Compound Bombay-1 with 10 spare copies
2. The Asstt Engineer Carrier C.T.O. Compound Ahmedabad-1 with 4 spare copies for the officials.
3. The Asstt Engineer Long Distance Surat with 2 spare copies for the officials.
4. The Asstt Engineer Long Distance Rajkot with one spare copy for the official
5. The D.E.T. Bhavnagar/Jamnagar/Rajkot with one spare copy for the official.
6. The A.C. Telecom Accounts Ahmedabad-9
7. The D.E.T. Ahmedabad-380009.

sd/-
For Postmaster General
Ahmedabad-380020

Telecom
A

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE CHIEF GENERAL MANAGER, GUJARAT
TELECOM. CIRCLE, AHMEDABAD- 380 009.

Memo No.: Staff-4/Conf/78/F dated at AM-9, the 5th July 1990.

In accordance with the instructions contained in D.G. P&T New Delhi letter No. : 5-59/83-NCG dated 26-9-83, the date of appointment of the following Transmission Assistants was revised to that of 1-11-1962 and also they are made eligible for all benefits based on the revised date of appointment. Therefore, the Chief General Manager, Gujarat Telecom. Circle, Ahmedabad-380 009, is pleased to issued the revised order promoting the following T.A.s to SG T.As with effect from 1-11-1972 :

Sl.no.	Name of T.A.	Revised date of SG T.A.
1.	Shri P.M. Munshi	01-11-1972
2.	" N.T. Thawani	- do -
3.	" K.T. Noticewala	- do -
4.	" R.B. Bhatt	- do --
5.	" R.C. Shah	- do -
6.	" J.J. Oza	- do -
7.	" P.U. Desai	- do -
8.	" H.G. Oza	- do --
9.	" H.M. Vaghela	- do -
10.	" J.R. Barodawala	- do -
11.	" L.S. Solanki	- do -
12.	" H.V. Dave	- do -
13.	" K.O. Seeda	- do -
14.	" M.K. Nadotaria	- do -

They are eligible for all the benefits based on this revised SG TA order.

(D.H. APTE)
 Asstt. General Manager (S)
 o/o C.G.M.T. Ahmedabad-9.

Copy forwarded for information & necessary action to :-

1. Shri S.N. Anand, Section Officer (NCG), D.O.T.
New Delhi-110 001.
2. With reference to his Lt. No.5-59/83-NCG dated 6-4-90.
3. The G.M.T.D. Ahmedabad/Baroda/Rajkot/Surat.
4. The T.D.M. Nadiad/Mehsana/Junagadh/Bulsar/Bhavnagar/Bhuj.
5. The C.G.M.(WTR), Telephone House, Prabhadevi, Bombay-28.

With reference to his No. STE-3/GJ/89-90 dated 2-5-90.

(D. H. APTE)
 Asstt. General Manager (S)

True on
N

Annexure- A/6

REMINDER - No. 1 - REGD/AD

30-12-1990

From : Shri R.C. Shah
(Retired S.G. R.S.A. Ahmedabad)
11. Sundervan Society,
Ashram Road,
Usmanpura, Ahmedabad-380 014

To : Shri S.G. Pitroda
Chairman,
Telecom Cmission
Sanchar Bhavan
New Delhi.

Sub: In-justice and under delay in my promotion to
the S.G. R.S.A.

Respected Sir,

With reference to the above subject, I had sent my above application by Regd/AD on 11th September, 1990 to draw your kind attention for the injustice in Promotion as S.G. R.S.A. along with my service Bio-data, but I am sorry to bring to your kind notice that even from your office-even I could not get any reply towards my representation. My service Bio-data as under :-

1. I was appointed as Regular R.S.A. with effect from 1-7-'59 with reference to D.G. & P & T New Delhi No. 81-25/62-NCG dt. 31.7.'62 by D.E.T. Ahmedabad No. E.81/CCS RP/60/Corr0III/278 dt. 24.3.'65 (As I have passed" First Trade Test - in 1962" with first attempt)
2. P.M.G. Bombay Memo No. A.E.-25/G.L. dt Bombay the 19th February, 1965 I was "Confirmed as R.S.A. from 1-3-1961."

As per orders existing at that time, promotion of S.G. R.S.A. was awarded after 10 years regular service thereafter in 7 years.

: 2 :

Looking to all the above orders from D.G. P & T New Delhi, my promotion date was fixed on 1-2-1973 and again revised on 1-11-1972 as per the D.O.T. New Delhi No.5-59/83 NCG dt. 6.4. '90 putting 1st Trade Test R.S.A. along with 2nd Trade Test R.S.A. batch as such injustice was not being removed any my claim for promotion was remain as "Deaf-year with department since last 30 years".

Sir, I have been retired since last three years and fell that injustice done in promotion (only one promotion) in 30 years of service have put me in much financial loss.

I, therefore, pray your kind honour to look into the matter and your interpretation can give justice.

~~Hoping~~
Hoping for favourable reply,

Thanking you,

Yours faithfully,

(R.C. SHAH)

C.C. to: All concerned G.M.M. - for justice into the matter.

SPECIAL NOTE FOR KINOT ATTENTION PLEASE.

1. THE R.S.A.S. WHO HAVE PASSED IN SECOND TRADE TEST HAVE BEEN FINANCIALLY AWARDED VIDE C.G.M.T. GUJARAT CIRCLE AHMEDABAD NO. STAFF-4/Conf/78/F dt. 5/7/90 WHEREAS I HAVE PASSED THE FIRST TEST IN FIRST ATTEMPT HAS EVEN AVOIDED FOR GIVING ANY FINANCIAL BENEFIT. THIS AGAINST DGP&T No.81-25/62-NCG DATED 30-7-62.
2. SERVICE CONDITION OF TRAINING PERIOD HAS BEEN REPEATEDLY WAIVED BY THE DEPARTMENT DUT THIS CONDITIONS HAS NOT BEEN WAIVED IN MY PROMOTION TO THE SELECTION GRADE R.S.A. THIS IS NOTHING BUT PUNISHMENT AND INJUSTICE AFTER PUTTING UP 30 YEARS OF UNBLAMISHED SERVICE IN THE DEPARTMENT. TO ME.

True copy
A

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE CHIEF GENERAL MANAGER, GUJARAT
TELECOM.CIRCLE. AHMEDABAD- 380 001.

TO

Shri S.A. Nagvi
Section Officer (PG&I)
Department of Telecom.
New Delhi-110 001.

No. Staff-4/Confirmation/78/F/104 dated at AM-1, the 24-6-92.
29

Sub : Injustice done in the case of Shri R.C. Shah, Retired SG RSA in promotion to the cadre of SG RSA.

Ref : 1. This office letter No. Staff-4/Confirmation/78/F/93 dtd. 9-1-92.
2. Your No. 16-7/92-PG&T dtd. 11-2-92.

....

In continuation to this office letter No. Staff-4/Confirmation/78/F dtd. 5-7-90, I am further directed to inform that the revision in date of posting was done by D.O.T. vide letter No.5-59/83-NCG dtd. 26-9-83. Accordingly, the orders were issued vide this office letter of even number dtd. 5-7-90 (copy enclosed for ready reference). The official is claiming that injustice had been done to him as he passed Trade Test in April '61 and was confirmed by PMG Bombay.

However, in light of DOT letter of even number dtd. 29-6-83, the date of appointment of RSAs appointed during 1961-62 were revised to 1-11-62 and accordingly such officials were promoted to SG RSA w.e.f. 1-11-72 on completion of prescribed service limit of 10 years vide this office letter of even number dtd. 5-7-90. The perusal of relevant records show that the official was posted substantively not after passing Trade Test but after undergoing training. Since all the candidates who qualified in the trade test could not be accommodated in batches on same date, D.O.T. revised the date of substantive posting of all officials to the earliest date of joining of training course by any one of the candidate who qualified in that trade test.

The cases, if necessary, may be referred to the D.O.T. staff Section to review their decision regarding revision of date of posting as R.S.A. Any information required from this office may be called for.

(Om Sharma)

Asstt. General Manager (S)
o/o C.G.M.T. Ahmedabad-1.

True copy
A

DEPARTMENT OF TELECOMMUNICATIONS

From : The Chief General Manager
Gujarat Telecom. Circle,
Ahmedabad : 380 001.

To : Shri R.C. Shah
Retired Telecom. Govt. Servant
11, Sundarvan Society,
Ashfam road, Usmanpura,
AHMEDABAD 380 014.

No. STAFF-4/Confir./78/F/118 Dated at AM.1 the 29-7-1993.

Subject : Non receipt of reply of com-
plaint for injustice in pro-
motion as SG RSA.

Ref : Your letter dated 7-6-1993.

With reference to your letter cited above on the subject, the undersigned is directed to forward hereinafter a copy of this office letter of even No. dated 9-1-92 and 29-6-92 and to intimate that as per departmental rules you could have been posted substantially as RSA only after completion of training, so your claim of posting substantially as RSA prior to date of training is not tenable and so D.O.T. had fixed date of appointment related to date of joining the training and not date of passing the trade test which had been further relaxed to the earliest date of joining by any candidate selected for a particular year of recruitment.

You are further requested to visit this office on any working day and see the undersigned to settle the issue please.

Encl : - Two(2) as above.

(Y.K. PATNI)
Asstt. Director Telecom. (staff)
o/o The Chief G.M. Telecom.
Gujarat Circle, Ahmedabad 380001.

Yours
A

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

ORIGINAL APPLICATION NO.573 OF 1993

shri R.C. Shah

.. Applicant

v/s.

Union of India & Ors.

.. Respondents

written reply on behalf
of the respondents.

I, J.L. KHARE working
as Advocate with respondent
No. _____ herein, do hereby state in reply to the above
application as under:

1. That I have perused the relevant papers
and files pertaining to the above matter and I am
conversant with the facts of the case and I am
authorised to file this reply on behalf of the res-
pondents.

2. At the outset I say and submit that the
application is misconceived, untenable and requires
to be rejected.

3. At the outset I say and submit that no
part of the application shall be deemed to have been

Presented by
Rajendra
Amit Kumar
to the
Court
on 16/12/93
in the morning
time.

16/12/93 CO I

admitted by the respondents unless specifically stated so herein. All the statements, averments and allegations contained in the application shall be deemed to have been denied by the respondents unless specifically admitted by me herein.

4. It is submitted that this reply is being filed with a limited purpose of ~~fixing~~ resisting admission of the application and interim relief prayed for by the applicant and I reserve the right to file a detailed reply, if and when required.

5. It is submitted that the application suffers from delay and latches and is barred by the law of limitation. As per prayer 7(A) of the application the applicant is requesting for a declaration that the impugned action of changing date of confirmation of the applicant from 1.3.1961 to 1-11-1962 is arbitrary. It is submitted that the application is hopelessly time barred and that the applicant has not made out any ground for condoning the delay caused in approaching this Hon'ble Tribunal at this belated stage.

6. In reply to paras-IV and V of the application, I say that the applicant has challenged the order No.SF-4/Confirm/78/44 dated 7.11.1984 after 9 years. This is a time barred case and hence

it does not come under the jurisdiction of this Hon'ble Tribunal under section 21 of the Central Administrative Tribunal Act, 1985. Hence this Hon'ble Tribunal be pleased to reject the application on that ground alone.

7. In reply to paras-VII (1) to (11) of the application, I say and submit that the applicant, temporary Repeater Station Assistant who was untrained and unqualified was appointed substantively with effect from 1.3.1961. The applicant appeared for the trade test examination in April 1961 and qualified for absorption from the date, final result was declared i.e. 16.10.1961. Director General's Communication No.81-36/62-NCG dated 15.2.1963 states that the date of appointment of the qualified Repeater Station Assistant of April 1961 was to be the date they joined the training class of Repeater Station Assistant. The clarification was sought from the Telecom. Directorate about the date of appointment of the untrained and unqualified RSAs who have qualified in the trade test of April 1961 and who were already appointed as untrained and unqualified RSAs. After getting clarification vide DOT & New Delhi Communication No.81-25/62-NCG dated 8.1.1969 the date of regular appointment as RSAs of applicant was revised from 1.3.1961 to 5.11.1962. Further, ~~xx~~ again Telecom. Directorate communication No.5-59/83-NCG dated 26.9.1983, the date of appointment

of all the qualified untrained RSAs trade test held in April 1961 was modified to 1.11.1962.

I say that the applicant's case was referred to the DOT, New Delhi vide office letter No. Staff/4/Confirmation/78/F/104 dated 24.6.1992. The Telecom. Directorate informed that applicant's case may be reexamined in accordance with the rules on the subject and he may be intimated suitably. The applicant was accordingly informed that he could have been posted substantively as RSA only after completion of training as per the Departmental Rules and therefore, his claim of posting substantively as RSA prior to the date of training is not tenable and so Telecom. Directorate had fixed the date of appointment related to the date of joining the training 5.11.1962 and not date of passing the trade (April 1961) test which had further relaxed to the earlier date (1.11.1962) of joining by any candidate selected for a particular year of recruitment. He was also informed at the time of his visit that his date of confirmation had been fixed in accordance with Telecom. Deptt. Rules and there is no injustice to him and there is no violation of Articles 14 and 16 of the Constitution of India. The applicant was confirmed on 1.11.1962 and he was also promoted as SG RSA with effect from 1.11.1972 in accordance with the Telecom. Directorate's instruction vide No.5-59/83-NCG dated 26.9.1963. Order was issued vide No. Staff-4/Conf/78/F dated

Annexure R-1

Annexure A. 51
of 0

5.7.1990 for all benefits based on the revised date of appointment.

8. In view of what has been stated above I say and submit that the application is totally misconceived, untenable and the applicant is not entitled to any relief, either interim or final and this Hon'ble Tribunal be pleased to reject the application forthwith with costs.

Ahmedabad,

Dt. 15-12-1993.

સાધુએક માન્ય 446
Asstt. General Manager

કાર્યાલય મહાપ્રદીપ લિમિટેડ

O/o. the Chief General Manager Telecom

ગુજરાત સરકાર પાદ્ધતિ-3c (00)

Gujarat Circle, Ahmedabad 380001

Verification

I, J. L. KHARE

working as AGM (D.I.) 1/F 0/o CGMT AHD do hereby verify and state that what is stated above is true to my knowledge, information and belief and I believe the same to be true. I have not suppressed any material facts.

Ahmedabad,

Dt. 15-12-1993.

સાધુએક માન્ય પ્રદીપ (વ. જાંચ)

Asstt. General Manager (D. I.)

કાર્યાલય સાધુએક માન્ય પ્રદીપ

O/o. the Chief General Manager Telecom

ગુજરાત સરકાર પાદ્ધતિ-3c (00)

Gujarat Circle, Ahmedabad 380001

BEFORE THE HON'BLE C.A.T., AHMEDABAD

O.A.NO.573/93

Shri R.C.Shah .. Applicant

VS.

Union of India & Ors. Respondents

written Reply on behalf of the
respondents.

filed on: -12-93

BEFORE THE HON'BLE C.A.T., AHMEDABAD

O.A.NO.573/93

Shri R.C.Shah .. Applicant

vs.

Union of India & Ors. Respondents

written Reply on behalf of the
respondents.

filed on: -12-93

-X-X-X-X-X-X-X-X-X-X-X-X-X-X-X-X-X-X-X-

Akil Kureshi
A.C.G.S.C. for respondents

Annexure R-13

29

Copy of Commn. No. 5-59/83-NCG dated 26.9.1983 from Shri S. Krishnan, Director (ST), O/o DG P&T New Delhi addressed to all Heads of Telecom. Circles and others.

Sub : Regularisation of appointment of RSAs recruited during 1961-62.

Sir,

I am directed to invite your attention to this office letter No. 81-36/12-NCG dated 15.2.63 (copy enclosed for ready reference) according to which all the candidates who had been declared qualified for appointment as RSA on the basis of examination/selection held in 1961-62 and who had not been completed their training on or before 1.11.1962 were to be imparted condensed course of theoretical and practical training and such candidates were to be treated as had been appointed as regular Repeater Station Assistants and allowed full pay and allowances in the scale of RSA from the dates they reported for training. But all these RSAs could not be deputed for training simultaneously dependent upon various factors like allotment of seats, capacity of Training Centres and on other administrative grounds.

In case of direct recruitments of 1961-62 training was totally exempted and they were deemed as trained RSAs from the date of their initial appointment which has resulted in the junior completing the eligible service for promotion to selection grade which the senior is yet to complete the requisite service.

To remove the anomaly the matter had been under consideration. It has now been decided that all those untrained approved departmental candidates as on 1.11.62 shall be treated as having been appointed as RSAs on regular basis w.e.f. 1.11.1962. Their seniority may be refixed accordingly and they would be eligible for all the subsequent benefit based on their revised seniority.

You are requested to take further necessary action accordingly.

Yours faithfully,
sd/- S. KRISHNAN
Director (ST)

dated at A'bad-9, the 9.11.1983.

No. SE/4-GL/Ch. I/109

Copy forwarded for information and necessary action to :

Director Telecommunications, Ahmedabad/Rajkot/Baroda.

1. Director Telecommunications, Ahmedabad/Rajkot/Baroda.
2. D.M. Telephones, Baroda/Surat/Rajkot.
3. All D.Es. Telegraphs, in Gujarat Circle.
4. G.M. Maintenance, Bombay.

- They are requested to furnish information on the following points in the cadre of Transmission Assistant recruited during 61-62 for regularisation of appointment.

1. RSA recruited during 1961-62.

(a) Name of officials.

(b) Gradation List particulars.

(c) Whether departmental candidates.

(d) Whether direct recruitment candidates.

The above information may be furnished within 15 days

positively.

Shri S. Krishnan (ST)
Asstt. Director Telecom. (Staff)
and in the 1961-62 cadre

(S.D. PAUL)
Asstt. Director Telecom. (Staff)
for G.M. Telecom., Ahmedabad - 9.

Copy forwarded for information and necessary action to :

G.M. Maintenance, Baroda

Gujarat Circle, Ahmedabad-200001

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IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, AHMEDABAD

ORIGINAL APPLICATION NO. 573 / 1993

Applicant : Shri R.C. Shah

VERSUS

Respondents : Union of India & ors.

REJOINDER

*Copy served to
Mr. Archibald
Delhi & others*

24/3/98

1. I, K.C. Shah, adult, the applicant abovenamed, resident of Ahmedabad, have gone through the reply filed by the respondents and am conversant with the facts of the case, state that contents of the reply is misconceived and not maintainable and I do not accept any of the contentions except those which are specifically admitted by me hereunder.

2. With reference to para 4 to 6 of the reply, it is not true that the application suffers from delay and latches and bad by limitation. I say that my representation is decided by the respondents and the cause of action has arisen from the date of rejection of the representation. It is not true that the application is hopelessly time barred. I rely on the contentions of my application. That I was subjected to review time and again by the Govt. That as the CGMT Gujarat Circle has not issued speaking order and the DOT has directed re-examination of my case and hence contentions of the respondent is bad in law and is not maintainable.

3. I further say that the CGMT Gujarat Circle has revised the date of selection grade promotion vide his order dated 5.7.90. As the said decision was not corrected, I approached to the Hon'ble Tribunal. That the order of CGMT

Copy/rejoinder
Recd by Mr. P. H. Patel
HOD
earmed advocate for respondents
Respondent with second set
Copy served to C.A.T. (if
Dy. Registrar C.A.T. (if
Kashish Patel
24/3/98

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Gujarat Circle dated 7.10.84 was revised by the Govt. itself in 1987 and thereafter the matter was pending before the respondents.

4. That with reference to para 7 of the reply, I deny the contentions of the respondents and reiterate and rely on what I have stated in para VII.1 & 2 of the application. The contentions of the respondents regarding untrained and unqualified is far from truth . I say that I was appointed for RSA w.e.f. 21.7.59 by DEM Ahmedabad on regular basis and there was no requirement to treat pending my appointment for RSA in 1959. That the DPC has selected me to regularise the appointment. The question of trade test etc do not apply in my case as I was appointed in 1959. I say that the trade test was only to examine the efficiency of the existing staff, therefore, I cannot be confirmed from the date of passing of the said test. That the instructions issued by the DG dt. 16.3.1963 cannot be made applicable with retrospective date, therefore, the contentions of the respondents about the clarifications from DOT etc are misconceived having no merit. That change of the date of my appointment cannot be made effective with retrospective date. That no opportunity of hearing was given to me. That I was working in the cadre of RSA from 1.8.89 continuously. My seniority cannot be changed without any reason whatsoever.

5. With reference to the contention on page 4 of the reply I deny the same and reiterate and rely on what I have stated in my application. The contention of the

(32)

respondent about posting of the applicant as RSA is only after though and have no merits. It is not true that I am informed about my confirmation at any point of time. I reiterate that contentions of the respondents are baseless having no merits, therefore the date of confirmation and subsequent order etc are required to be quashed and set aside.

6. I say that prior to 1964 the criteria for promotion to the post of RSA was on completion of 10 years of service. That the order of DG P&T dt 31.7.62 is very clear, therefore, no decision to change the date of confirmation of the applicant can take place and hence the decision of the respondents is required to be set aside and the applicant is required to be granted SG promotion from 1971 is just and proper and hence the application is required to be allowed with cost.

Date:

Ahmedabad

VERIFICATION

I, R.C. Shah, the applicant, adult, resident of Ahmedabad do hereby state that what is stated above is true to the best of my knowledge and belief and I believe the same to be true.

Date:

Ahmedabad

