

3

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 341 OF 1991

Date of decision: 31.3.92

T. Babu Rao

.... Applicant

-Versus-

Union of India and others

.... Respondents

For the applicant

.. Mr. G. A. R. Dora, Advocate

For the Respondents

.. Mr. P. N. Mohapatra, Addl.
Standing Counsel (Central)

.....

C O R A M:

THE HONOURABLE MR. K. P. ACHARYA, VICE- CHAIRMAN

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1. Whether reporters of local papers may be allowed to see the judgment? Yes.
2. To be referred to the reporters or not? No.
3. Whether His Lordships wish to see the fair copy of the Judgment? Yes.

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4



T. Babu Rao

.... Applicant

~~-Versus-~~

For the applicant

For the respondents

J U D G M E N T

K.P.ACHARYA,V.C.

In this application under section 19 of the

2. Shortly stated, the case of the Petitioner is that he passed secondary School Certificate examination which is equivalent to Matriculation and he was selected

5

as Lineman which post he joined on 12th July, 1978. According to the Petitioner, a lineman with five years experience is eligible to appear at the Departmental Competitive Examination for appointment/promotion to the post of Technician and the Petitioner appearedⁱⁿ the test for the post of technician and he was selected. Thereafter the Petitioner was deputed to the Circle Telecom Training Centre at Bhubaneswar and the Petitioner had undergone one full year training course and thereafter he was posted as Technician vide Annexure-A/1. The Petitioner joined the said post on 1st July, 1985. According to the Petitioner, basing on the rules, he is entitled to an additional increment which all the matriculate Technicians are enjoying but the Petitioner not having been granted such benefit of increment, he made a representation contained in Annexure-A/3 claiming advance increment which has since been rejected by the Opposite Party No.2 vide Annexure-A/4. Hence this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintain that vide Annexure-R/1, a clarification has been sought for and as soon as instructions are received, the Petitioner would be given his dues if he is made entitled to the same. It is further maintained by the Opposite Parties that the representation of the Petitioner has not yet been rejected. It is further maintained that since the representation has ^{been} not finally disposed of, the application is premature.

Hence the application is liable to be dismissed.

4. I have heard Mr. G.A.R.Dora learned Counsel appearing for the Petitioner and Mr. P.N.Mohapatra learned Additional Standing Counsel at some length.

5. Completion of twelve months theoretical and practical training and passing of matriculation examination after getting promotion to the post of a technician, by the Petitioner, was not disputed before me. Mr. Lora learned Counsel for the Petitioner relied upon Annexure-A/2 bearing memo No.12-1/88-PAT dated 8th March,1990 issued by the Director(ST-II) from the Department of Telecommunications, New Delhi addressed to all the Heads of Telecom Circles etc., at paragraph 2(1) ^{in which} it has been mentioned as stated hereunder:

" One advance increment be given in the scale of pay of Technicians who have passed the Matriculation or a recognised equivalent examination and those who have passed diploma/certificate course from an institution recognised by the Govt. of India for admission to which the minimum qualification is below matriculation and who were/are appointed as Mechanic/Technician after undergoing the prescribed training satisfactorily, with effect from 16th April,1986 or the date of such appointment whichever is later".

6. From Annexure-R/1(which is a letter addressed to the Director General, Department of Telecom(PAT Section) by the Chief General Manager, Telecommunications dated 3th January,1991) it would be found that the Petitioner was promoted to the cadre of technician during the year

7

2

1985 and it is mentioned therein that the Petitioner has successfully completed the prescribed training during the year 1985. Instructions have been solicited from the Competent Authority whether the Petitioner is eligible to get one advance increment from the date of his passing the matriculation examination. This is pending for final orders to be passed by the Competent Authority. It is further alleged by the Petitioner at paragraph 4(vi) that all Matriculate Technicians are enjoying the said benefit, but, the Petitioner has been deprived of the same. I have carefully gone through the averments in the counter and this fact has not been denied anywhere in their counter. Therefore, I presume that some other matriculate technicians have been given one advance increment and I find no justifiable reason to deprive the Petitioner of that benefit. At the cost of the repetition, I may say that passing of matriculation examination by the Petitioner has not been disputed.

7. Lastly, it was alleged by Mr. Mohapatra that the Petitioner should wait for final orders to be passed by the Competent Authority over the correspondence made with the Director General, Telecommunications contained in Annexure-R/1. This letter is dated 3rd January, 1991, even though more than two months have elapsed no orders have been passed by the Competent Authority and it would not

just and expedient in the interest of justice to hold ^{this} ~~the~~ case to be infructuous and ask the Petitioner to wait and in case he receives **any** adverse order he may again approach ~~before~~ ⁱⁿ the Tribunal which will amount to **multiplicity** of litigation. In such circumstances, I do not feel inclined to accept the aforesaid submission of Mr. Mohapatra learned Additional Standing Counsel appearing for the Respondents.

8. In the facts and circumstances of this case discussed above, I am of opinion **that** the Petitioner is entitled to one advance increment with effect from the date ~~on~~ which he qualified himself as a matriculate. Hence it is directed that one advance increment be given to the Petitioner with effect from the ^{aforesaid} ~~the~~ date and the ~~arrears be~~ calculated and paid to the Petitioner within sixty(60) days from the date of receipt of a copy of this judgment.

9. Thus, the application stands allowed leaving the parties to bear their own costs.



[Signature]
31.3.92
.....
VICE CHAIRMAN

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty.