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CENTRAL ADMINISTRATIVE TRIBUNAL  
Cuttack Bench, Cuttack

Original Application No. 518 of 1996

Cuttack, this the 7th day of April, 1997

Jayanta Kumar Nayak and others .... Applicants

Vrs.

Union of India and others .... Respondents

**(FOR INSTRUCTIONS)**

- 1) Whether it be referred to the Reporters or not? Yes ,
- 2) Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? Yes .

Somenath Som  
(S.SOM)  
VICE-CHAIRMAN 7/4/97



**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.**

ORIGINAL APPLICATION NO.518 OF 1996  
Cuttack, this the 7<sup>th</sup> day of April, 1997

**CORAM:**

**HONOURABLE SHRI S.SOM, VICE-CHAIRMAN**

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1. Jayanta Kumar Nayak, aged about 42 years,  
s/o Haribandhu Nayak
2. Bipin Behari Patanaik, aged about 45 years,  
s/o late Dharmu Patanaik
3. Kapila Prasad Gochhayat, aged about 44 years,  
s/o Bansidhara Gochhayat
4. Tankadhara Naik, aged about 45 years, s/o Narada Naik
5. Baikuntha Nath Mohapatra, aged about 47 years, s/o late Sadasiba  
Mohapatra
6. Shridhara Parida, aged about 47 years, s/o late Fakira Parida
7. Purna Chandra Sethi, aged about 46 years, s/o Pravakar Sethi
8. Babaji Mahal, aged about 42 years, s/o late Nidhi Mahal
9. S.Lakshmana Rao, aged about 47 years, s/o late S.Satyana Rayana
10. Bimal Lochan Naik, aged about 42 years, s/o Bhubaneswar Naik  
all are Junior Telecom Officers of Central Telegraph Office,  
-versus- At/P.O & Dist.Cuttack ... Applicants

*7-4-97*

1. Union of India, represented by its Secretary in the  
Ministry of Communications, New Delhi.
2. The Director General/Chairman, Telecom Directorate,  
New Delhi
3. The Chief General Manager, Telecommunication, Orissa Circle,  
Bhubaneswar.
4. The Telecom District Manager, Telecom Dist., Cuttack-1  
.... Respondents

Advocates for applicants - M/s Srinibas Mohanty,  
S.K.Mohapatra & S.Samal.

Advocate for respondents - Mr.S.C.Samantray,  
A.S.C.  
...

O R D E R

S. Som, Vice-Chairman This is a petition under Section 19 of the Administrative Tribunals Act, 1985 making the following prayers:

- (i) Direction to the respondents to provide residential service telephone connection to the applicants;
- (ii) Quashing of order dated 31.7.1995 refusing such residential service telephone connection to the applicants;
- (iii) Financial benefits for the years the applicants were deprived of residential service telephone connection; and
- (iv) In case of non-provision of residential service telephone connection, payment of over-time allowance.

The facts of this case fall within a short compass and can be briefly stated.

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2. Ministry of Communication in their letter dated 3.7.1990 decided that residential service telephone connections should be provided to those Junior Telecom Officers who were performing duties on holidays as a regular and routine measure. The applicants were originally Assistant Superintendents Telegraph Traffic and have been merged with Junior Telecom Officers in 1994. It has been submitted in the petition that All India Telegraph Assistant Superintendents' Association have been constantly demanding

residential service telephone connections to Junior Telecom Officers connected with Central Telegraph Offices and Telegraph Offices as those Junior Telecom Officers, who are Assistant Superintendents Telegraph Traffic, perform duties on holidays and beyond office hours and as such they claim to be entitled to such residential service telephone connections in terms of the letter dated 3.7.1990. It has been further asserted in the petition that while all the Junior Telecom Officers of Central Telegraph Office, Bhubaneswar, have been allotted with such residential service telephone connections, the Junior Telecom Officers working in the Central Telegraph Office, Cuttack, have not been provided and their representation has been rejected in the impugned order dated 31.7.1995 at Annexure- 4. Apparently this matter has been taken up by their Association through the Regional Joint Consultative Committee, but without any result. On the above grounds they have made the prayers referred to earlier.

3. In the counter filed by the respondents it has been mentioned that residential service telephone connections are provided free of rent and installation charges and are sanctioned only where such connections are considered necessary in the interest of service. It has been submitted that the present applicants are not required to attend office in case of break down or exigency of service and, therefore, they are not entitled to such telephone connections. It is further stated that only five amongst these applicants are brought on Sunday and holidays on rotation basis with advance notice and for such duty they are provided with compensatory off-duty during week-days in accordance with the departmental regulations. It is further stated that the applicants are Assistant Superintendents Telegraph Traffic and even though their cadre has been merged with

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the general cadre of Junior Telecom Officers, nature of duties of the applicants differs from that of other general Junior Telecom Officers. The applicants' work consists of supervision, of acceptance, transmission and delivery of telegrams. They are confined to Central Telegraph Office and are not required to handle cable laying, telephone connection and maintenance of telephones. According to the counter, services of the applicants are to be distinguished from that of the outdoor Junior Telecom Officers who work in the field for laying of cable and maintenance of telephones. As regards preferential treatment to the Assistant Superintendents Telegraph Traffic who have become Junior Telecom Officers at Bhubaneswar, it has been stated that one Junior Telecom Officer (erstwhile Assistant Superintendent Telegraph Traffic) being the seniormost has been provided with residential service telephone connection in the interest of service. The other two Junior Telecom Officers (erstwhile Assistant Superintendents Telegraph Traffic), who have been given residential service telephone connections, have been shifted to other Branches of the Telephone Department and retention of their telephone connections is not in accordance with the order dated 3.7.1990. On the above grounds the respondents have submitted that the relief prayed for in the petition should not be granted.

*Yours faithfully  
J. H. 97*

4. In this case the learned lawyer for the applicants did not appear on 21.2.1997 even though copy of the counter was served on him on the previous occasion, i.e. on 17.1.1997. On 19.3.1997 nobody appeared on behalf of the applicants and the matter was posted to 21.3.1997 for peremptory hearing and it was indicated

that if the learned lawyer for the applicant remained absent on the next date, then no further adjournment would be given and the matter would be decided on the basis of materials available on record.

On 21.3.1997 the learned lawyer for the applicants was absent. I had, therefore, no option except to hear the learned Additional Standing Counsel on behalf of the respondents. Accordingly orders were reserved with a direction that the learned lawyer for the applicants might make written submissions within a week. No such written submissions have been made and the matter has, therefore, been taken up on the basis of materials available on record.

5. The first point to be noted is that the basis of the claim of the applicants is the circular dated 3.7.1990. In this circular it has been specifically mentioned that residential service telephone connections should be provided only to those Junior Telecom Officers who are performing duties on holidays as a regular and routine measure. Thus it is clear from the circular that all the Junior Telecom Officers are not entitled to residential service telephone connections. Only such Junior Telecom Officers who are performing duties on holidays as a regular and routine measure are entitled to such residential service telephone connections. It is for the departmental authorities to determine as to the officers who are entitled to such residential service telephone connections strictly in terms of the circular dated 3.7.1990. In the counter the respondents have specifically asserted that even though the applicants are Junior Telecom Officers (erstwhile Assistant Superintendents Telegraph Traffic), the nature of their duties is substantially different from that of the other Junior Telecom Officers. The nature of duties performed by the two types of Junior Telecom Officers has been discussed by me earlier while dealing

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with the counter of the respondents. It is further stated that when occasionally one of the applicants is brought for duty on holiday he is provided with compensatory off-duty. In view of the specific assertion of the respondents that the applicants are not performing duties on holidays as a regular and routine measure, it is clear that the applicants are not entitled to such residential service telephone connections.

6. As regards the question of hostile discrimination against the applicants compared to the Junior Telecom Officers (erstwhile Assistant Superintendents Telegraph Traffic) working in the Central Telegraph Office, Bhubaneswar, from the counter it is seen that out of three such persons to whom residential service telephone connections have been provided, two are working in other Branches of the Telephone Department and the question of retention of such telephone connections by them will be decided by the departmental authorities in accordance with the rules. Their cases, therefore, cannot be compared now with that of the applicants. The third person is the seniormost Junior Telecom Officer (erstwhile Assistant Superintendent Telegraph Traffic) and in consideration of the nature of his duties, a residential service telephone connection has been given to him. From the above recital of facts it becomes clear that there has been no hostile discrimination against the applicants requiring intervention by the Court. It is also to be stated that getting a residential service telephone connection is not an incidence of service. The circular dated 3.7.1990 itself makes it clear that only those Junior Telecom Officers who perform duties on holidays as a regular and routine measure may be provided with such telephone connections. (Emphasis supplied). Thus it is clear that residential

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service telephone connections are given for maintaining and improving service to the general public. This is not a facility given to the concerned government servant for his benefits. Under the circumstances, this cannot, therefore, be considered an incidence of service. On this ground also the petition fails.

7. In the result, the petition is without any merit and is rejected, but there shall be no order as to costs.

S. Pramod Nayak  
(S.SOM)  
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