

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH  
JODHPUR

(2)

DATE OF ORDER : 22 JUNE, 1999.

O.A.No. 213/1998

1. Nathu Singh Chundawat S/o Shri Sardar Singh, Aged 39 Years
2. Smt. Lajwanti Chauhan W/o Sh. Vipin Pal Singh, AGed 37 years
3. Sitaram Regar S/o Sh. Narayanlal Aged 37 years.
4. Girraj Prasad Meena S/o Shri Bhajanlal Meena Aged 41 years
5. Arjun Singh S/o Shri DAshrath Singh Aged 37 years.
6. DharanChand Soni S/o Shri Bhorulalji Aged 39 years.
7. Kedarnath Gupta S/o Sh. Jagdishprasad Gupta, Aged 37 years.
8. Nandkishore S/o Shri Pannalal Ji Aged 37 years.
9. Gopallal Chippa S/o Shri Mangilalji Aged 38 years.
10. Smt. Rekha Bhambani W/o Shri Anoopkumar Aged 38 years.
11. Mustak Ahmed Khan S/o Sh. Peer Mohammed Aged 39 years.
12. Parasram Swarnkar S/o Shri Dhanrajji Aged 40 years.
13. B.C. Berwal S/o Shri Magniramji Aged 40 years.
14. Laxman Singh Jhala S/o Sh. Gopal Singh Aged 42 years.
15. R.K. Chandsi S/o Shri Rampratapji Aged 42 years.
16. Smt. Sunita Dak W/o Sh. Lalitkumarji Aged 43 years
17. O.P. Jain S/o Sh. Prabhulalji Aged 37 years.
18. Shivram Singh S/o Shri Gyarsiramji Aged 46 years.
19. J.N. Meena S/o Sh. Kalyan Sahai Meena Aged 26 years.

Official Address :

Applicants No. 1 to 10, and 19 are at present employed on the post of Sr.TOA(T) and applicants No. 11 to 18 on the post of in the office of Sr.TOA(TG) in the office of CTO/ SSA, Udaipur.



.....APPLICANTS

VERSUS

1. Union of India through Secretary to Government of India, Ministry of Communication, Department of Telecom, Sanchar Bhawan, New Delhi.
2. Chief General Manager Telecom, Rajasthan Circle, Jaipur.

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3. General Manager Telecom District, Udaipur.

..... RESPONDENTS

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CORAM :

HONOURABLE MR. A.K.MISRA, JUDICIAL MEMBER

HONOURABLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

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PRESENT :

Mr.J.K.Kaushik, Counsel for the Applicants.

Mr.Vineet Mathur, Counsel for the Respondents.

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ORDER

(PER HON'BLE MR.A.K.MISRA)



The applicants have prayed in the O.A. that the impugned order dated 21st July, 1998 (Annexure A/1) ordering withdrawal of benefits of the post of Sr.TOA (T/TG) under re-structuring scheme be declared illegal and be quashed.

2. Notice of the O.A. was given to the respondents who filed their reply to which no rejoinder was filed.

3. Briefly, the facts of the case are as follows :-

All the applicants who were initially appointed as Telegraphists and Telegraph Assistants, are working on the promotional post of Sr.TOA (T/TG) under the re-structuring scheme issued by the Department. It is alleged by the

applicants that all the applicants except applicant No. 19, were asked to submit their option in respect of re-structured cadre of Sr. TOA vide letter dated 3rd June, 1994 (Annexure A/2). Due to shortage of time or in other words due to not granting sufficient time and in the absence of details of re-structuring scheme the applicants could not exercise their option in terms of letter Annexure A/2 and thus they were categorised as non-optees. It is further alleged by the applicants that due to the resentment of the employees/department the matter was taken up by the authorities and it was decided to invite fresh options from the employees with the condition that such fresh optees shall rank junior to those who have given their option earlier. A letter to this effect issued by the Department is Annexure A/3. In pursuance of this letter, the applicants exercised their option. Except applicants No. 18 and 19, all the applicants were extended the benefits in the re-structuring scheme w.e.f. 16th February, 1996 (Annexure A/5). All the applicants, except Shri Nand Kishore (No.9), Shri G.L.Chhipa (No.10), Smt. Rekha Bhambhani (No.11) and Shri J.N.Meena (No.19), were imparted requisite training which they have passed. Annexures A/5/A to A/9 are letters issued by the authorities indicating successful completion of the training by the applicants and thus the applicants are presently working on the promotional post as per the re-structuring scheme. It is further alleged by the applicants that the respondent No. 3 has issued a letter dated 21st July, 1998 (Annexure A/1) withdrawing all the benefits of re-structured post including the financial benefits on the ground that the option exercised by the applicants have been declared ineffective by the higher authorities. Thus, the applicants are adversely affected by the order withdrawing such benefit which was once conferred on them



due to their having exercised option in terms of the official letter. The applicants have challenged the withdrawal of the order on the ground that benefits of re-structuring scheme extended to subsequent optees have not been withdrawn in other Divisions. Similar options have been again invited by the letter of the respondents dated 24th January, 1997 (Annexure A/10). It is also challenged on the ground that higher authorities have ordered that no reversion should be affected in the re-structuring scheme. On the basis of the withdrawal of the order, the applicants are facing recoveries and deductions in their pay for which no notice has been given to them, therefore, the impugned order is required to be quashed. The respondents have filed their reply in which they have raised two preliminary objections; one relating to the joint petition and the second relating to non availing departmental remedies by the applicants. It is also alleged by the respondents that all the applicants stood reverted on the post of TOA in view of order dated 21st July, 1998 (Annexure A/1) on the date of order itself, therefore, the applicants are not entitled to any interim relief. The applicants did not exercise option in time while other similarly situated candidates exercised their option to avail the benefit of re-structuring scheme. However, on exercising the option by the applicants, they were ordered to officiate on the post of Sr. TOA (T/TG) on purely temporary and ad hoc basis which confers no right on them. The letter relating to exercise <sup>of</sup> option subsequently was withdrawn by the authorities on the ground that earlier order of 1994 inviting option had fixed the cut off date and no option could be invited after that date. Therefore, the applicants are not

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entitled to retain the benefits of re-structuring scheme due to ill-extended opportunity of exercising option. The order of the respondents withdrawing the option is perfectly legal and valid. The O.A. is without any force and deserves to be dismissed.

4. We have heard the learned counsel for the parties and gone through the case file.

5. The learned counsel for the respondents firstly argued in respect of the preliminary objections which we have considered in detail and we come to the conclusion that preliminary objections are liable to be rejected. All the applicants are similarly placed and are affected by the order of withdrawal of benefits extended earlier to them under the re-structuring scheme. All of them derived cause of action from a similar action of the respondents and are also seeking remedy against the same order of the respondents. Therefore, they cannot be said to be differently placed, as alleged by the respondents.

6. The order withdrawing the benefit of re-structuring scheme indicates that the applicants are not entitled to any increment for the period they have worked as Sr.TOA (T/TG) and they were heldentitled to no financial benefits. This clearly shows that they were adversely affected in respect of their pay etc. Their representation to the concerned authorities might have placed them in an adverse situation financially, therefore, their not representing to the Department for redressal of their grievance, cannot be adversely viewed in view of the urgency of the matter. Both the arguments of the learned counsel for the respondents are hereby rejected.

7. Both the counsels have elaborated their stand as taken by them in their respective pleadings which we have considered. The Department by its subsequent order dated 24th November, 1997 (Annexure A/10), invited fresh options for entering into the re-structured cadre of Telecom, Technical Assistant, Phone Mechanics and Sr. TOAS. This shows that the Department is keen about extending the benefit of re-structuring to its employees from time to time and in view of this letter, it cannot be said that cut off date, as fixed by the earlier order of 1994 was ~~not~~ the last and final date upto which options were required to be exercised by the concerned employees. Therefore, the stand taken by the respondents that the applicants were wrongly asked to exercise their option to avail the benefits of re-structuring scheme, is without any substance. When the Department on one hand is extending benefit of calling options from the employees in respect of the re-structuring scheme, it is strange that on the other hand, the Department is withdrawing such benefits from the employees who had exercised their option subsequently in the past foregoing their seniority in terms of the respondents letter. In our view, the Department cannot be allowed to take such a technical approach in the matter and to say that the options were not exercised before the cut off date. Principally, the Department is extending the benefits of re-structuring scheme to its employees by calling their option as described in Annexure A/10. Therefore, it is unreasonable on the part of the Department to withdraw the benefits from the applicants who had exercised their option, imparted training accordingly and were ordered to officiate on the higher post as per Department's order Annexure A/5.

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8. The Department had also not provided an opportunity to the applicants to show cause as to why already granted benefits under the restructuring scheme should not be withdrawn from them. The Department, in our opinion, cannot be allowed to act in an arbitrary manner like this. Such orders have the effect of demoralising the working force and inefficiency may creep-in in their working due to such adverse orders which in our opinion, would not be congenial to the efficient working of the Department. The order Annexure A/1 has the effect of financially affecting the applicants and thus, has the effect of affecting their civil rights and, therefore, the order Annexure A/1 deserves to be quashed.

9. In view of the foregoing discussion, we come to the conclusion that the O.A. deserves to be accepted and the applicants are entitled to the relief claimed.

10. The O.A. is, therefore, accepted. The impugned order Annexure A/1 dated 21st July, 1998, ordering withdrawal of benefits from the applicants of the post of Sr.TOA (T/TG), under re-structuring scheme, is hereby quashed. This order is hereby treated as honest and if in compliance of this order the applicants have or any one of them has been placed in the lower grade/post then all of them or such one of them, should be restored to its post and position including the pay <sup>they were</sup> were/was enjoying prior to the enforcement of the order Annexure A/1. If consequent to order Annexure A/1 any deduction from the pay has been made from the applicants or any one of them, the same should be refunded to such of them but in the circumstances without any interest. The Department is granted two months time to comply with the orders. No orders as to cost.

*Gopal Singh*  
(GOPAL SINGH)  
Adm. Member

*A.K. Misra*  
27/6/99  
(A.K. MISRA)  
Judl. Member

Part II and III destroyed  
in my presence on 10.5.2006  
under the supervision of  
Section Officer ( )  
order dated 10.5.2006

Yours  
Section Officer (Record)

Record  
Record  
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bb/gjrc  
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Copy of order  
sent to Counsel for Regs  
by Regd AD will

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cts

28/6/06