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Central Administrative Tribunal
Jodhpur Bench, Jodhpur
...

Date of order : 29.1.2001

O.A.No. 238/1999

Durga Lal Regar S/o Shri Ganga Ram aged about 40 years,
R/o Village Ganesh Pura, Post Mata Ki Pandoli, Chittor-
garh; Official Address : Telecom Technical Assistant,
Telegraph, Telephone Exchange Chittorgarh.

..... Applicant.

Versus

1. The Union of India through ;
The Secretary, Ministry of Communication,
Sanchar Bhawan, Department of Telecom,
New Delhi.
2. The Chief General Manager Telecom,
Rajasthan Circle, Jaipur.
3. The General Manager Telecom, Udaipur.
4. The Telecom District Manager, Chittorgarh.

..... Respondents.

Mr. Kamal Dave, Counsel for the applicant.

Mr. S.K. Vyas, Counsel for the respondents.

CORAM :

HON'BLE MR. JUSTICE B.S. RAIKOTE, VICE CHAIRMAN

HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

ORDER

Per Hon'ble Mr. Justice B.S. Raikote :

In this application under section 19 of the
Administrative Tribunals Act, 1985, the applicant has

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sought a direction to the respondents directing them to allow the benefit of OTBP and TTA, at par with the employees who were juniors to him, with all consequential benefits.

2. It is the case of the applicant that at the relevant time when he was working as Technician, a departmental inquiry was initiated against him and vide proceedings of the department dated 8.5.2000 (Annex.R/2), the inquiry proceedings were dropped against him, though, earlier there was an order of punishment which he had challenged before this Tribunal in O.A.No. 320/92 and vide an order dated 4.11.93, the said order was set aside with the liberty to the department to initiate fresh proceedings. Thereafter, no proceedings were sought to be initiated against him. Ultimately, vide order Annex.R/2 dated 8.5.2000, all the proceedings were dropped against him. The learned counsel for the applicant contended that when the sole proceedings that was against him was dropped and there was no other pending inquiry against him, the applicant should have been given the benefit of OTBP w.e.f. the date his junior Shri L.R.Koli, was given the benefit. He should also have been given TTA grade w.e.f. his junior Shri J. C.Jinger, was given in the year 1994 whereas, the applicant has been given the benefit of OTBP from 18.3.95. It is only because of the pendency of this departmental proceedings, he was denied the benefit of TTA grade w.e.f. 1.1.94 on which date Shri Jinger was given the benefit. The applicant, no doubt, was given the benefit of TTA grade w.e.f. 1995 but he was entitled from 1.1.94, therefore, there should be a direction to the respondents to accord the benefit to

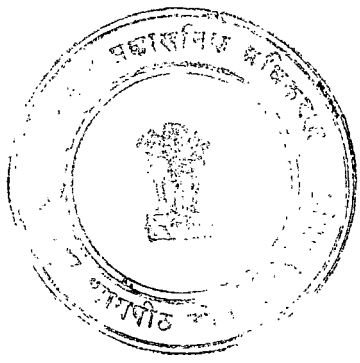


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which the applicant was entitled with retrospective date.

3. By filing the counter, the department has denied the case. The substance of the counter is that the applicant was not accorded the benefit of OTBP and also the benefit of TTA grade, on the sole ground of pendency of a departmental proceeding against him. So far as the proceedings of the TTA is concerned, they were kept in a sealed cover but after dropping the proceedings, he was given the grade of TTA w.e.f. 9.2.98. They have also stated that the applicant was in fact given the benefit of OTBP w.e.f. 18.3.95, on the date, his junior Shri Jinger has got it. Therefore, he cannot have any grievance regarding OTBP. Accordingly, they submitted that there are no merits in this application and the same is liable to be dismissed.



4. Having regard to the pleadings on record and also the contention urged by the learned counsel, the short point that arises for our consideration would be, as to from what date, the applicant would be entitled to OTBP and TTA grade, as against his juniors. The fact that the departmental proceedings were pending since 1987 and the applicant was not given the accrued benefit from time to time, is admitted. When the department chose to drop the proceedings the applicant was entitled to the position at par with his juniors, otherwise it would be discriminatory.

5. So far as the benefit of OTBP is concerned, the applicant's counsel now admitted that he has been given the benefit of the same w.e.f. 18.3.95 and precisely from this very date, his junior Shri L.R.Koli

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was given the benefit of OTBP. If that is so, the applicant cannot complain of any type of discrimination. Thus, we find that this contention fails.

6. Regarding the TTA Grade, it is not in dispute that the applicant was senior to Shri Jinger and Shri Jinger has been given the benefit of TTA grade w.e.f. 1.1.94. If that is so, the applicant also would be entitled to the said benefit from that date.

7. The learned counsel for the respondents contended that applicant's relief is barred by time. This point does not appeal to us for more than one reason. It is not disputed that right from 1987, the departmental proceedings were pending against the applicant and they were dropped only on 8.5.2000 vide Annex. R/2. If that is so, the applicant's claim arises only on dropping the proceedings on 8.5.2000 and earlier to this, he could not have claimed the benefit because of the pendency of disciplinary proceedings against him. Admittedly, a sealed cover procedure was adopted and after that, the sealed cover was opened and applicant was given the benefit of TTA. The action of the department in not giving him the benefit of TTA from 1.1.94 is un-sustainable. Having regard to these circumstances, the delay does not come in the way of the applicant for granting the relief in relation to the TTA grade is concerned. Accordingly, in our opinion, the application deserves to be allowed in part and consequently, we pass the order as under.

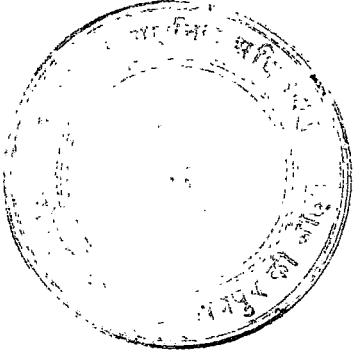
8. The Application is allowed in part. The applicant is entitled to TTA Grade w.e.f. 1.1.1994 with



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all the consequential benefits. The Respondents are directed to accord this benefit by issuing appropriate proceedings within a period of three months.



9. No orders as to cost.

Gopal Singh
(Gopal Singh)
Adm.Member

B.S. Raikote
(B.S.Raikote)
Vice Chairman

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Part II and III destroyed
in my presence on 28-3-07
under the supervision of
section officer J. as per
order dated 19-1-24-07


Section officer (Records)