

D.A.No.2273/93, D.A.No.444/94 and  
D.A.No.781/94

Thursday, this the 18th day of August, 1994

CORAM:

HON'BLE SHRI S KASIPANDIAN, ADMINISTRATIVE MEMBER

D.A.2273/93

M Ramakrishnan,  
E.A. to Superintending Engineer(E)  
Telecom Electrical Circle,  
Thiruvananthapuram-1. - Applicant

By Advocate Mr G Sasidharan Chempazhanthiyil

Vs.

1. The Superintending Engineer(E)  
Telecom Electrical Circle,  
Thiruvananthapuram-695 001.
2. Chief Engineer,  
Department of Telecom,  
84, TTK Road,  
Madras-18.
3. Executive Engineer(E),  
Telecom Electrical Division,  
TT Nagar, Bhopal-462 003(M.P).
4. Director General,  
Telecom Department,  
New Delhi.
5. Union of India represented by  
its Secretary in the  
Ministry of Communications,  
New Delhi. - Respondents

By Advocate Mr TPM Ibrahimkhan, ACGSC

D.A.444/94

1. CP Varghese, Senior Accounts Officer,  
Officiating Chief Accounts Officer,  
O/o General Manager, Telecom,  
Ernakulam.
2. K Gopinathan Nair,  
Senior Accounts Officer,  
Officiating Chief Accounts Officer,  
O/o Telecom District Manager,  
Kollam. - Applicants

3. N Rajendran Nair, Senior Accounts Officer,  
Officiating Asstt. Chief Accounts Officer,  
O/o Chief General Manager, Telecom,  
Thiruvananthapuram.
4. VP Unnithan, Senior Accounts Officer,  
Officiating Asstt. Chief Accounts Officer,  
O/o Telecom District Manager,  
Alappuzha.
5. M Gopalakrishnan, Senior Accounts Officer,  
Officiating Asstt. Chief Accounts Officer,  
O/o General Manager, Telecom, Thrissur.
6. PK Sreedharan, Senior Accounts Officer,  
Officiating Asstt. Chief Accounts Officer,  
O/o General Manager, Telecom, Kozhikode.
7. V Rajagopalan, Senior Accounts Officer,  
Officiating Asstt. Chief Accounts Officer,  
O/ Chief General Manager, Telecom,  
Thiruvananthapuram.
8. Varghese Samuel, Senior Accounts Officer,  
Officiating Asstt. Chief Accounts Officer,  
O/o Telecom District Engineer, Thiruvalla.
9. CS Asok Kumar, Senior Accounts Officer,  
Officiating Asstt. Chief Accounts Officer,  
O/o Telecom District Manager, Palghat.
10. PK Madhavan, Senior Accounts Officer,  
Officiating Asstt. Chief Accounts Officer,  
O/o General Manager, Telecom, Kannur.
11. T Venugopalan Nair, Senior Accounts  
Officer, Telecom Electrical Division,  
Kochi-682 016. - Applicants

By Advocate Mr G Sasidharan Chempazhanthiyil

Vs.

1. Union of India represented by its  
Secretary, Ministry of Communications,  
New Delhi.
2. The Director General, Telecommunications,  
Department of Telecom, New Delhi.
3. Chief General Manager, Telecom,  
Kerala Telecom Circle,  
Thiruvananthapuram.
4. Chief General Manager, Telecom,  
Gujarat Circle, Ahmedabad. - Respondents

By Advocate Mr Kodoth Sreedharan, ACGSC

O.A.781/94

1. KA George,  
Assistant Surveyor of Works(Electrical),  
Telecom Electrical Circle,  
Thiruvananthapuram.
2. VL Thomas,  
Assistant Engineer(Electrical)  
Telecom Electrical Sub Division,  
Thana, Kannur.
3. Papputty Moni,  
Assistant Engineer,  
Telecom Electrical Sub Division II  
Corporation Buildings,  
Kochi-16. - Applicants

By Advocate Mr G Sasidharan Chempazhanthiyil

Vs.

1. The Superintending Engineer(E),  
Telecom Electrical Circle,  
Thiruvananthapuram-695 001.
2. Chief Engineer,  
Department of Telecom,  
84, TTK Road,  
Madras-18.
3. Executive Engineer(E),  
Telecom Electrical Division,  
TT Nagar, Bhopal-462 003(M.P)
4. Director General,  
Telecom Department, New Delhi.
5. Union of India represented by its  
Secretary in the Ministry  
of Communications, New Delhi. - Respondents

By Advocate Mr Kodoth Sreedharan, ACGSC

O R D E R

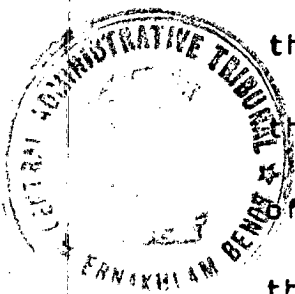
The prayer of the applicants in these three cases is that their pay has to be stepped up on par with the pay of some of their juniors. Learned counsel for the applicants argued that this issue had come up before this Tribunal in



O.As 342, 337 and 1134 of 1993. Learned counsel for the applicants argued that in the light of the provisions of FR.22-C and DG P&T's Instruction, Ministry of Finance, OM. No.F2(10)-EIII(A)/62 dated 20.6.1965, the applicants are entitled to the stepping up of pay as it is admitted by the respondents that some of the juniors are drawing higher pay than the applicants.

2. Learned counsel for the respondents argued that this anomalous situation of juniors drawing higher pay than the seniors has arisen because these juniors were given officiating promotions in the respective circles whenever vacancies arose and the officiating pay they were drawing had to be protected while fixing their pay on regular promotion. This was done in the exigencies of service. They pointed out that there is an inherent conflict between the rule position that while fixing the pay of an officer on promotion, his officiating pay in the promoted category had also to be taken into account and the other rule position provided in FR 22-C that the seniors should not be given lesser pay than the juniors.

3. After having heard the learned counsel on both sides, it is felt that the conflict pointed out by the respondents that they are not able to reconcile the position of fixing the pay of the officer on promotion taking into account his officiating pay also and the other stipulation in FR 22-C that a senior should not be allowed to draw lesser pay than



his juniors has to be resolved by the respondents themselves.

There are methods of resolving this situation either by giving equal opportunity to all the officers in the feeder categories all over the country by ascertaining their options to officiate in the promotion post wherever a vacancy arises or in the alternative, stipulate that a junior will be allowed to officiate only if he is willing to agree for fixation of his pay at the time of regular promotion on par with or lesser than his seniors. But the basic provision of FR 22-C that a senior cannot be made to draw a lesser pay than the juniors has to be necessarily followed by the respondents as the purport of this provision is to ensure that there is no frustration in service due to any other fortuitous circumstances. For the reasons above mentioned, the applicants in all these three cases are entitled to the benefit given to the applicants in O.As 342, 337, 1134 and 1156 of 1993. The pay of the applicants may therefore be stepped up to the level of his juniors drawing a higher salary which may be done within a period of six months from the date of receipt of this order.

4. The three applications are allowed as above. No costs.

Thursday, this the 18th day of August, 1994.



trs/18894

Sd/-  
( S KASIPANDIAN )  
ADMINISTRATIVE MEMBER

CERTIFIED TRUE COPY

Date 31.8.94

Deputy Registrar

31/8/94