

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.59/96

Friday, this the 15th day of March, 1996.

C O R A M

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN
HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

....

AS Narayanan, Section Supervisor (O),
Office of Assistant Engineer, Phones,
External (North), Kottayam.

....Applicant

By Advocate Shri MR Rajendran Nair.

vs.

1. The Chief General Manager, Telecom,
Kerala Circle, Trivandrum.
2. Union of India represented by Secretary,
Ministry of Communications, New Delhi.

....Respondents

By Shri PR Ramachandra Menon, Addl Central Govt Standing Counsel.

The application having been heard on 8th March, 1996,
the Tribunal delivered the following on 15th March, 1996:

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicant, a Section Supervisor in the office of the Assistant Engineer, Phones, Kottayam, prays that his seniority be fixed in the category of Time Scale Clerks in Kerala Telecom Circle on the basis of total length of service. He had approached the Tribunal earlier for the same relief in OA 691/94. The Tribunal directed that, as decided by the Tribunal in OA 414/91, the seniority of the applicant at the Circle level be determined on the basis of commencement of continuous service as Time Scale Clerk. The date from which this would be given effect to was left to the respondents.

contd.

2. Respondents state that they have decided to implement the above direction from 4.11.92 which is the date of A6 orders, which according to respondents, adopts the above principle. Applicant was promoted on the due dates, but for further promotion to Grade IV Chief Section Supervisor, the seniority in the respective divisions is the criterion, according to respondents.

3. The cadre of Time Scale Clerk is a Divisional Cadre. For fixing the seniority at the divisional level, the old criterion of date of confirmation has been replaced by order of merit at the time of initial appointment with effect from 4.11.92 by A6 order. A6 order, in fact, adopts the principle laid down in OA 414/91 (for merging Divisional seniority with Circle seniority) for Divisional seniority itself. Its adoption from 4.11.92 would affect Divisional seniority and not the merger into Circle seniority which as stated in OA 414/91:

"is merely a working list prepared by merging the Divisional seniority lists for the purpose of promotion to the Circle cadre".

But Divisional seniority and its fixation according to A6 is not the issue here. The question is how the different Divisional Cadres should be merged to obtain a Circle level seniority list for deciding promotions to Circle level posts. Admittedly, there are no rules which govern the merger of Divisional lists into a Circle list. The A6 order does not refer to such merger at all. The Tribunal in OA 414/91 laid down the principles for such merger, and adopting those principles, the decision in OA 691/94 was rendered. In the Circle list, applicant should be placed

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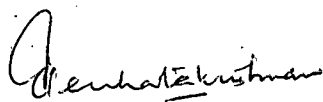
according to the date of commencement of continuous service as Time Scale Clerk. The matter of Rule 38 transfer and its effect on his seniority, the application of A6 orders, are all matters relating to his Division-level seniority. They have no relevance to Circle-level seniority, which is to be based only on the date of commencement of continuous service as Time Scale Clerk. Further promotions would consequently be based on the position of the applicant in the Circle-level seniority list determined on the basis of the date of his commencement of continuous service as Time Scale Clerk.

4. According to respondents, applicant has been promoted under Time-Bound-One-Promotion Scheme and the Biennial Cadre Review Scheme on the dates on which the Schemes were introduced. There is, therefore, no question of any retrospective promotions under those Schemes to which the applicant is entitled as a result of the adoption of the principle laid down in OA 414/91.

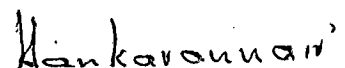
5. We declare that the applicant is entitled to be considered for further promotion as Grade IV Chief Section Supervisor on the basis of his position in the Circle-level seniority list based on the date of his commencement of continuous service as Time Scale Clerk. A5 is quashed. If the turn of the applicant (based on this criterion) for promotion to Grade IV has already come, he shall be so promoted with effect from the date on which his turn so arose with consequential fixation of pay as on that date. Arrears of pay, if any, shall be limited to a period of three years.

6. The application is disposed of as aforesaid. No costs.

Dated the 15th March, 1996.



PV VENKATAKRISHNAN
ADMINISTRATIVE MEMBER



CHETTUR SANKARAN NAIR (J)
VICE CHAIRMAN

LIST OF ANNEXURE

1. Annexure A-6: True copy of the O.M.No.20011/1/5/90-Estt(D) dated 4.11.1992 issued by Ministry of Personnel, Public Grievances and Pension.

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