

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 592/2000

WEDNESDAY, THIS THE 25th DAY OF SEPTEMBER, 2002.

C O R A M

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER
HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

1. P.K. Somasekharan Nair S/o late P.G. Kesavan Nair
Sub Divisional Engineer (Indoor)
Palai residing at Athira
Poonjar P.O., Palai
2. T.N. Rajappan S/o Sri T.K. Narayanan
Sub Divisional Enginner (Stores)
Kottayam-5 residing at Telecom Quarters
Thazhathangadi, Kottayam-5
3. P. Narayanan Moosad S/o late Sankaran Moosad
Sub Divisional Engineer, Telephones
External, Malaparamba, Kozhikode-9.
4. P.I. Wilson S/o late P.I Lazar
Sub Divisional Engineer (Phones)
Sulthanbatheri
residing at Ponnokkaran House
Ambileri, Kalpetta, Wynad District.
5. V.J. Thomas S/o V.T. Joseph
Sub Divisional Engineer (Phones)
External (Central)
Kottayam residing at Vilanguparackal House
Vattakkunnu P.O
Via Meenadom, Kottayam District. Applicants

By Advocate Mr. O.V. Radhakrishnan

Vs.

1. Chief General Manager (Telecom)
Kerala Circle, Thiruvananthapuram-695 033
2. Secretary, Department of Telecom Services
Sanchar Bhavan, New Delhi-1
3. Chairman, Telecom Commission
Sanchar Bhavan, New Delhi.
4. Union of India represented by its Secretary
Ministry of Telecommunications
New Delhi.
5. K.I. Iype
Divisional Engineer (Transmission)
Office of the General Manager,
Telecom, Tiruvalla.
6. K.P. Philip
Divisional Engineer (Phones)
Mavelikkara

7. A.K.Ramakrishnan
Divisional Engineer (OCB)
Tellichery.
8. N.P. Thomas
Sub Divisional Engineer
Telecom Cables, Vytilla, Ernakulam
9. K.M.R. Varriar
Sub Divisional Engineer
Telecom Installation
Kochi.
10. C.M. Mary
Sub Divisional Engineer,
SPC Telex, Telephone exchange
Boat Jetty, Ernakulam
11. P.S. Eldoh
Sub Divisional Engineer Cables (Central)
RKV Building,
Market road, Kochi-11
12. M.P. Johnson
Sub Divisional Engineer (Phones)
Vytilla, Kochi-19. Respondents

By Advocate Mr. TC Krishna ACGSC for R 1-4
By Advocate Mr. TC Govindaswamy for R 6 & 7
By Advocate Smt. Lakshmi Jayashankar for R 8-12

The Application having been heard on 30.7.2002 the Tribunal delivered the following on 25.9.2002.

O R D E R

HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

This Original Application has been filed by applicants, five in number, seeking to call for records leading to Annexure A-11 order dated 9.5.2000 and set aside the same to the extent it promoted the officials who got promoted to Telecom Engineering Services Group-B as per A8 overlooking the seniority of the applicants and to declare that the persons like respondents 5 to 7 who got promoted to Telecom Engineering Service Group-B on regular basis as per A8 memorandum dated 20.5.93 were not entitled to seniority and rank in TES Group-B on the basis of their promotion as per A1 which became infructuous on their declining promotion. They sought the following reliefs through this O.A.



(i) to call for the records leading to Annexure A11 and to set aside the same in to the extent it promotes the officers who got promoted to Telecom Engineering Service Group-B as per Annexure A8 overlooking the seniority of the applicant.

(ii) to declare that persons like respondents 5 to 7 who got promoted to Telecom Engineering Service Group-B on regular basis as per Annexure A8 memo dated 20.5.93 are not entitled to seniority and rank in Telecom Engineering Service Group-B on the basis of their promotion as per Annexure A1 which became infructuous on their declining promotion, by force of Annexure A3 OM dated 1.10.1981 and Annexure A4 and A5 judgments of this Hon'ble Tribunal.

(iii) to issue appropriate direction or order directing the respondents 1 to 3 not to promote persons like respondents 5 to 7 who got promoted to Telecom Engineering Service Group-B as per Annexure A8 memo dated 20.5.93 to ITS Group-A before promoting persons like the applicants who became members of the Telecom Engineering Service Group-B in terms of annexure A-1.

(iv) to issue appropriate direction or order directing the 1st respondent not to extend the arrangements already made as per Annexure A-11 on the expiry of the period of 90 days.

(v) to issue appropriate direction or order directing the Ist respondent not to grant any further local officiating promotion to officers who had declined their promotion as per Annexure A1 and thereby became disentitled to the deemed dates of promotion.

(vi) to issue appropriate direction or order directing the respondents 1 to 3 to make regular promotions to ITS Group-A on the basis of the seniority and rank reckoned from the respective deemed dates of promotion shown in Annexure A6 excluding those officers who are not entitled to the deemed dates shown therein by reason of their declining of their promotion as per Annexure A1.

(vii) to grant such other reliefs which this Hon'ble Tribunal may deem fit, proper and just in the circumstances of the case

and

(viii) to award costs to the applicants.

2. Applicants as well as respondents 5 to 7 were promoted to officiate in Telecom Engineering Service Group-B against the upgraded posts in Group-B by A1 OM dated 16/19.11.90. All the applicants were posted under Madhya Pradesh Circle at different offices. Applicants 1, 3 to 5 carried out their transfers and joined the Madhya Pradesh Circle on promotion. Applicant No. 2 sought change of



Circle and being reallocated joined the Karnataka Circle on 4.3.92. Respondents 3 to 5 and some others aggrieved by their transfer outside Kerala Circle on promotion to TES Group-B approached this Tribunal by filing O.A. 1058/90 and 56/91. By A6 letter dated 9.2.93 a revised seniority list of Telecom Engineering Group-B Officers along with Memorandum dated 9.2.93 was issued in which it had been stated that in the case of those persons who declined promotion and those who did not join their place of posting, their promotion to TES Group-B as per A1 became inchoate and ineffective and they did not become members of the TES Group-B cadre. According to the applicants they could not be assigned rank and seniority above them in A6 revised seniority list. The deemed dates of promotion stated in A6 would not be applicable to such of those Junior Telecom Officers. Respondents 5 to 7 continued in the cadre of JTOs as could be seen from A7 dated 25.2.1993. JTOs like the 5th respondent who had declined promotion along with others were promoted alongwith others in the vacancies which arose in 1993 as per A-8 memo dated 20.5.93. The applicants were transferred back to Kerala Circle by order dated 13.5.93. They were posted to Tiruvalla SSA under the 1st respondent as per Memo dated 20.5.93. In Kerala Circle the officials who had refused promotion and had not joined the places of posting on regular promotion till 31.12.92 were not identified and separately shown in A-6. According to the applicants, such of those officers in Kerala Circle who had declined their promotion ordered as per A1 and those officers who were subsequently promoted against vacancies that arose in 1993 as per A8 could claim seniority on the basis of their placement in A-6 and their seniority could be fixed only with respect to their date of joining TES Group-B pursuant to A8. Applicants 1 & 2 filed A-9 and A-10 representations both dated 19.1.95



pointing out the anomaly in A6. According to them they having joined the respective places of posting were entitled to seniority and rank on the basis of the deemed dates assigned in A6 and persons like respondents 5 to 7 were not entitled to the deemed dates shown in A6 against their names as indicated in A6 itself. That apart A3 OM also provided that the officers who declined promotion would lose their seniority vis a vis those who accepted their promotion and joined their place of posting. When applicants found Respondents 5 to 7 along with 11 others were promoted to the cadre of ITS Group temporarily and were posted to officiate locally as Divisional Engineers by A-11 Memo dated 9.5.2000 overlooking the seniority of the applicants they filed this O.A. seeking the above reliefs..

3. Respondents 1 to 4 filed reply statement resisting the claim of the applicant. According to them declining of promotion by respondents 5 to 7 was not accepted by the competent authority. as would be evident from the reallocation of respondents 5,6, 7 etc. in A-8 order. They submitted that all of them along with many others who declined promotion filed OAs before the Tribunal for reallocation to Kerala Circle. In view of the pendency of the OAs the Department had not taken any action on their letters declining promotion. Relying on the Department of Personnel and Administrative Reforms OM dated 16.3.82 they submitted that when appointments from a select list were made in different years the select list prepared by the Departmental Promotion Committee would remain intact. Hence the seniority assigned to the respondents 5,6 and 7 along with the applicants remained the same insofar as they were appointed from the same select list. Further, A4 and A5 orders of this Tribunal were challenged before the Hon'ble Supreme Court and

A handwritten signature in black ink, appearing to be a stylized 'A' or 'S' followed by a horizontal line.

the Hon'ble Supreme Court by its judgment dated 22.9.92 in civil Appeal NO. 3933 of 1992 directed the Department to consider posting of the promoted officers to Kerala Circle within a period of one year from the date of judgment. The respondents 5 to 7 were given reallocation in accordance with the said direction of the Hon'ble Supreme Court. They submitted that fresh order was issued in partial modification of A1 order as in R1(a) order. They submitted that all the applicants along with respondents were given in Kerala Circle by R1(a) order. R1(a) was not challenged. They submitted that the local officiating promotion given to respondents 5 to 7 were strictly on the basis of seniority position assigned by the appointing authority. The applicants were challenging the said seniority list after the stipulated period of one year of the publication of the seniority list. In the additional reply statement it was submitted that the Hon'ble Supreme Court had not dismissed the SLP but has disposed of the SLP. The Hon'ble Supreme court in its judgment dated 22.9.92 permitted the department to consider the posting against vacancies that may arise after a period of one year from the date of the judgment. The Department issued posting orders in accordance with the said directions. Hence their original seniority would stand. A-6 could not be made applicable to respondents 5 to 7 even though they assumed charge after 31.12.1992. The local officiating promotion given by the first respondent to respondents 5 to 7 were strictly according to the guidelines on the subject maintaining their seniority position assigned by the appointing authority.

4. Separate reply statement was filed by the respondents 5 to 7 and respondents 8 to 12.

A handwritten signature consisting of stylized initials and a surname, with a horizontal line underneath the signature.

5. Applicants filed rejoinder and additional rejoinder to the reply statements filed by respondents 1 to 4. According to the applicants the reply statement filed on behalf of the respondents 1 to 4 could not be admitted in evidence for non-compliance of Rule 12(3) of the Central Administrative Tribunals (Procedure) Rules, 1987. The said reply was filed by the Sub Divisional Engineer (Staff), Office of the Chief General Manager, Telecom Trivandrum who was not a party in the Original Application. He was not an officer authorised to sign pleadings and other documents to be filed for and on behalf of the Union of India before this Tribunal. According to them the reply statement filed on behalf of the 4th respondent was inadmissible and was liable to be ignored. He also filed separate rejoinder to the reply statement of party respondents.

6. Official respondents filed second additional reply statement.

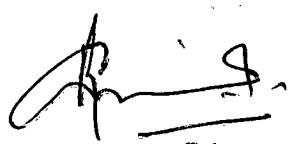
7. Heard the learned counsel for the parties.

8. Shri O.V. Radhakrishnan, learned counsel for the applicant took us through the factual aspects as contained in the OA and submitted that in terms of the A3 OM dated 22.11.78 and 1.10.81 of the Govt. of India, Department of Personnel and Administrative Reforms as well as judgment of the Hon'ble Supreme Court and A6 seniority list the applicants were entitled for the reliefs sought for. Sri T. C. Krishna, ACGSC for Respondents 1 to 4 took us through the reply statement and reiterated the points made therein. The counsel for respondents 6 and 7 and counsel for respondents 8 to 12 reiterated the points made in the irrespective reply statement.

A handwritten signature in black ink, appearing to be a stylized 'S' or a similar character, is located at the bottom center of the page.

9. We have given careful consideration to the elaborate submissions made by the learned counsel for the parties and the pleadings of the parties and have perused the documents brought on record. On the basis of the pleadings and submission we find the issue to be decided in this OA is whether the action of the first respondent in promoting respondents 5 to 7 and similar others to ITS Group-A locally on the basis of the original seniority assigned to them in the cadre of TES Group-B at the time of their promotion in 1990 is legal.

10. As all respondents in their reply statements are relying on the orders of this Tribunal and the judgment of the Hon'ble Supreme Court for their actions we have to consider them in detail. But as the applicants had raised a preliminary objection about the reply statements filed by the official respondents we propose to consider the said issue first. According to the applicants as per the Govt. of India's A12 notification dated 28.9.93 only a Group-A officer of a Ministry/Department of Government or a Desk Officer in a Ministry/department of Union of India or any Group-A officer can file a reply statement on behalf of the Union of India and that the Sub Divisional Engineer (Staff) not being a Group-A officer of the Ministry or Department of the Govt. of India, the reply statement stated to have been filed on behalf of the respondents 1 to 4 has to be taken as not on behalf of the Union of India. Further the respondents submitted relying on the decision of the Allahabad Bench of the Tribunal in Ram Rakha Vs. Union of India and another (1988 (88) ATC 16) and Rule 12(3) of the Central Administrative Tribunal (Procedure) Rules 1987 that in the absence of any authorisation from respondents 1 to 3, the

A handwritten signature in black ink, appearing to read 'A. S.' or a similar initials, is located at the bottom of the page.

reply statement filed on their behalf by the Sub Divisional Engineer (Staff) has to be ignored. We find that the respondents even though had filed additional reply statement they had not specifically contradicted this. It had only been submitted that the SDE(Staff) in the office of the Chief General Manager, Telecom had been authorised by the first respondent to file the reply statement and as such he has filed the reply statement. Further it had been submitted that all Gazetted Officers of the Department of Telecommunications were empowered to sign plaints and written statements in suits in any Court of Civil jurisdiction or in Writ proceedings by or against the Central Government. What we find is that nothing had been produced in support of this averment. The notification of Govt. of India referred to by the applicants reads as under:

GOI Deptt. of Per. & trg. Notification No. A-1109/105/87-AT dated the 28th September, 1993 published as GSR 630(E) in the Gazette of India of the same date)

Authorised persons to sign and verify the written statements on behalf of the respondents in CAT

In exercise of the powers conferred by Article 77 of the Constitution and in supersession of the Government of India (Authorisation of officers for verification of pleadings and other documents to be filed in the Central Administrative Tribunal) Rules, 1992 (Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training) Notification No. A-11019/105/87-AT dated the 21st July, 1992, published as GSR 689(E) in the Gazette of India of the same date read with Corrigendal of even number dated the 15th October, 1992, published as GSR 808(E) in the Gazette of India of the same date except as respect things done or omitted to be done before such supersession, the President hereby makes the following rules, namely:-

1. Short title and commencement- (1) These rules may be called the Government of India (authorisation of officers for verification of pleadings and other documents to be filed in the Central Administrative Tribunal) rules, 1993.

(2) They shall come into force on the date of their publication in the Official Gazette..



2. Authorisation of officers-(1) The officers specified in the Schedule annexed to these rules are hereby authorised to sign all pleadings and other documents to be filed for and on behalf of the Union of India, before the Central Administrative Tribunal established under subsection (1) of Section 4 of the Administrative Tribunals Act, 1985 (13 of 1985)

(2) Such of the officers referred to in sub rule (1) as are acquainted with the facts of the case are also authorised to verify such pleadings.

SCHEDULE
(See Rule 2(1))

1.(i) Any Group-A Officer in any Ministry/Department of the Government of India

(ii) Any Desk Officer in any Ministry/Department of the Government of India

2. Any Group-A Officer in any non-Secretariat office of the Government of India.

We find from the above that the Govt. of India by the above notification had authorised specifically only Group-A officers in any Ministry/Department or in any non-Secretariat offices or Desk Officers in any Ministry to file reply statements on its behalf. No material has been placed before us by the official respondents that the above notification had been superseded or any further instruction had been issued. Thus we find force in the submissions made by the applicants and hence we hold that the fourth respondent-Union of India had not filed any reply statement in this O.A. Further on the basis of the averment in the reply statement as only the first respondent had authorised the Sub Divisional Engineer (Staff) to file the reply statement we hold that amongst the official respondents only the first respondent had filed the reply statement and the second and third respondents had not filed any reply statement.

11. The first respondent has relied on the order of this Tribunal in O.A. No. 1058/90 and OA 56/91 and also judgment of the Hon'ble Supreme Court in Civil Appeal No. 3933/92 dated 22.9.92 for his action. According to him A8 order



dated 20.5.93 had been issued as re-allotment and it was not as a result of fresh consideration of the respondents 5 to and hence they did not loose seniority and as they did not loose seniority A-11 could not be faulted..

12. This Tribunal in its order in O.A. 1058/90 dated 12.7.91 held as follows:

"7. Under these circumstances, having regard to the facts and the submissions made by the applicant, we dispose of this application with the following directions:

- a) The impugned order in so far as it transfers the applicant on promotion to TES Group-B from Kerala Circle to another Circle is quashed. the respondents will be at liberty of the vacancy so caused in the other Circle in any manner they like and in such an event, the applicant will not have any claim against that appointee for seniority or other benefits.
- b) The respondents are directed to consider posting the applicant in Group-B post in Kerala Circle itself within a period of one year from the date of this order
- c) In making such posting, the respondents shall consider the case of the applicant along with other similarly placed persons who have also filed similar applications, as also the 18 Group-B officers mentioned in Annexure-I to the statement dated 29th May, 1991 filed by the respondents working outside Kerala who have requested for a transfer to Kerala Circle on the same principles as have been adopted in the Annexure-III order
- d) Postings of other persons to TES Group-B posts in Kerala circle may be considered after exhausting the posting of the applicants and other referred to in (c) supra.
- e) If the applicant does not get a posting on a Group-B post in Kerala Circle on the above terms within one year from today, the promotion granted to him by Annexure-III order will automatically stand cancelled on the expiry of one year from today and thereafter, his case for promotion will be considered along with others who are eligible to be consider for promotion to TES Group-B vacancies that may arise thereafter.

A handwritten signature in black ink, appearing to read "A. S." followed by a stylized surname.

13. In OA No. 56/91 also similar orders were passed. The Department filed SLP in the Hon'ble Supreme Court in Civil Appeal No. 3933/92 arising out of SLP 17008/91 against the order of this Tribunal in O.A. 1058/90. The Hon'ble Supreme Court held as follows:

For all the aforementioned reasons, we hold that the Tribunal was not justified in quashing the order of transfer of the respondent and accordingly we set aside the order of the Tribunal.

Before parting with this judgment, we in the light of the observation made by the Tribunal reading that "the respondents 1 & 2 are prepared to consider the claims of the applicant along with other similarly situated persons taking into account the vacancies that are at present existing and such of those which may arise in future within a period of one year" would like to observe that the appellants herein, notwithstanding the allowance of this Appeal, may consider the case of the respondent along with the case of the other similarly situated persons within a period of one year from today, since there was an ex-parte interim stay dated 25.11.91 of the order of the Tribunal and then the modified order dated 27.1.92 directing status quo instead of interim stay which orders, in our opinion, might have stood in the way of considering the case of the respondent along with others as agreed upon by the appellants before the Tribunal.

The Appeal is allowed subject to the above observation.

We find from the above that the averments in the reply statement that the SLP filed by the Department in the Supreme Court was dismissed by judgment dated 22.9.92 and the subsequent averment in the additional reply statement that the Hon'ble Supreme Court disposed of the SLP are both found to be not correct at all. In fact the Civil Appeal had been allowed and the order of this Tribunal in O.A. 1058/90 was set aside by the Hon'ble Supreme Court. It is also evident from the judgment of the Hon'ble Supreme Court extracted above that the respondents 1 & 2 in OA No. 1058/90 were prepared to consider the claim of the applicants alongwith other similarly situated, taking into account the vacancies



then existing and which may arise in future within a period of one year. On that basis, the Hon'ble Supreme Court held that notwithstanding the Civil Appeal being allowed, the respondents in the OA that the appellants in the SLP may consider the case of the applicants in the OA along with the case of other similarly situated persons within a period of one year from the date of the judgment. It is evident from the order of this Tribunal as well as the judgment of the Hon'ble Supreme Court that the applicants in O.A. 1058/90 and OA 56/91 and other similarly situated persons were to be considered for the vacancies in the Kerala Circle which would arise subsequent to the vacancies which existed by A1 order. This would indicate that A8 order reallotting the respondents 5 to 7 and others were not against the vacancies which existed when A1 order was issued.

14. Further we find from A6 letter dated 9.2.93 that the Assistant Director General on behalf of the Telecom Commission had refixed the seniority of Group-B Officers. The said letter reads as under:

No.16-17/92-STS
Government of India
Telecom Commission
Sanchar Bhavan
New Delhi.

Dated 8.2.93

To

Chief General Managers, Telecom Circle
General Managers, Telephone Districts.
etc.etc.

Subject Refixation of seniority in TES Group-B in
pursuance of Hon'ble Central Administrative
Tribunal decisions-seniority list-XIV

.....

In accordance with Hon'ble Central
Administrative Tribunal decisions in several OAs and
in continuation of this office order Nos
16-4-92-STG-II dated 8.9.92, 16-5-92-STG-II dated
22.9.92, 16-6-92-STG-II dated 23.10.92,



16-7-92-STG-II dated 12.11.92. 16-8-92-STG-II dated 11.12.92, 16-9-92-STG-II dated 6.1.93, 16-10-92-STG-II dated 15.1.93, 16-11-92-STG-II dated 15.1.93, 16-12-92-STG-II dated 20.1.93, 16-13-92-STG-II dated 21.1.93, 16-14-92-STG-II dated 29.1.93, 16-15/92-STG-II dated 29.1.93 and 16-16/92-STG-II dated 29.1.93 the Director General Telecommunications is pleased to refix the seniority of TES Group-B officers promoted on the basis of review DPC 1990 (II) as mentioned in Annexure A. The deemed dates of promotion are indicated against their names. The deemed date of promotion will not be applicable for those officers who has either refused promotion or have not joined their place of posting on their regular promotion till 31.12.92 or who were not promoted on account of Vig./Disc. case pending against them or for any other reasons.

The seniority numbers beyond 10269 have not been indicated as the enclosed list is only part list against 3200 posts of TES Group-B to be filled up by recommendations of Review DPC 1990(II). The seniority number of remaining officers will be indicated subsequently after completion of entire DPC/Review DPC proceedings separately.

2. This list has been prepared on the basis of the final All India Eligibility List of Junior Engineers circulated vide office letters dated 23.11.92, 25.11.92, 31.12.92, 8.1.93 and 14.1.93 which was placed before the said review DPC.

Yours faithfully,

Sd/- G. M.Kaushal
Asst. Director General(SGT)

Copy to :

1. Telecom Engineering Service Association, etc.

We find from the list annexed to the above letter that the deemed date of promotion of some employees listed therein had been shown as 19.11.90 - the date on which A1 order had been issued. We also find that the deemed date would not be applicable to those officers who had refused promotion or had not joined their place of posting on their regular promotion till 31.12.92 or who were not promoted on account of Vig./Disc. case pending against them or for any other reasons. Admittedly Respondents 5 to 6 had not carried out their regular promotion till 31.12.92. When they had not carried out the said order till 31.12.92 they would not get their promotion. Thus they remained as JTO till A8 order was



issued. Similar is the case with respondents 8 to 12. Under these circumstances, we find that the applicants have made out a case for the reliefs sought for by them. Moreover, in accordance with A3 circular dated 22.11.72 followed by circular dated 1.10.81 Govt. servants who refuse promotion would not get further promotion for a period of one year. The very fact that the respondents had undertaken before this Tribunal as well as before the Hon'ble Supreme Court that they would consider the applicants' case for reallocation to Kerala circle against future vacancies would indicate that the Department had accepted their refusal. In this view of the matter we do not find any force in the respondents' plea that the appointing authority had not accepted the refusal made by the party respondents. Moreover, as held by us, even though the appointing authority was made a party in this OA, no reply statement was filed by the said authority.

15. Thus the first respondent had followed the seniority position as contained in the Annexure to A6 without following the instructions contained in A6 letter dated 9.2.93. In fact A-6 letter dated 9.2.93 had been issued after A-15 judgment dated 22.9.92 of the Hon'ble Supreme Court. If the appointing authority did not want that respondents 5 to 7 and 8 to 12 and similar others were not to loose seniority and suffer the consequences as contained in A-3 OM, the Department would not have filed SLP in the Hon'ble Supreme Court and got the order of this Tribunal set aside.

16. In view of the foregoing we hold that A11 cannot be sustained. Accordingly we quash and set aside A11 to the extent it promoted officers who got promoted to TES Group-B ~~xxxxxxxx~~ as per A8 order overlooking the seniority of the applicants. We declare that the persons like Respondents 5

A handwritten signature consisting of a stylized 'A' and a 'J' shape, with a horizontal line underneath.

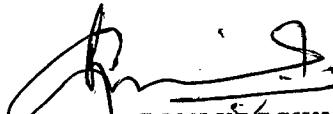
got to 7 and 8 to 12 who got promoted to TES Group-B on regular basis as per A8 memo dated 20.5.93 are not entitled to seniority and rank in TES Group-B on the basis of their promotion as per A1 which became infrutuous on their declining promotion by force of A3 Memo dated 1.10.1981 and A-15 judgment of the Hon'ble Supreme Court in Civil Appeal No. 3908 of 1992 dated 22.9.1992 as well as A6 order issued by the Assistant Director General, Telecommunications, New Delhi. We direct the respondents 1 to 4 not to promote respondents like Respondents 5 to 7 and 8 to 12 who got promoted to TES Group-B as per A8 memo dated 20.5.93 to the ITS Group-A before promoting the applicants and similar others who became members of the TES group-B in terms of A1. We also direct the first respondent not to extend the arrangements already made as per A-11 except as directed above. We direct the respondents 1 to 3 to make regular promotion to TES Group-B on the basis of seniority and rank reckoned from the respective deemed dates of promotion shown in A6 excluding those officers who are not entitled to the deemed dates shown therein by reason of their declining of their promotion as per A1.

17. In the circumstances of the case we hold that the applicants are entitled to receive costs from Respondents 1 to 4 which we quantify as Rs. 2000/-. We direct the respondents 1 to 4 to pay the same within two months from the date of receipt of the copy of this order.

18. The Original Application stands allowed as above.

Dated the 25th September, 2002.


K.V. SACHIDANANDAN
JUDICIAL MEMBER


G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER

- 17 -
A P P E N D I X

Applicants' Annexures:

1. A-1: True copy of the Memorandum No.232-/89-STF-II dated 16/19-11/90 of the 2nd respondent.
2. A-2: True copy of the Order No.EII-59/Col.III/17 dated 21.5.91 of the Telecom District Manager, Kottayam.
3. A-3: True copy of the OM No.22034/3/81-Estt(D) dated 1.10.81 of the 4th respondent.
4. A-4: True copy of the judgement in OA 1058/90 dated 12.7.91 of this Hon'ble Tribunal.
5. A-5: True copy of the Judgement in OA 56/91 dated 12.9.91 of this Hon'ble Tribunal.
6. A-6: True copy of the Letter No.16-17/98-STG-I dated 9.2.93 of the 2nd respondent.
7. A-7: True copy of the Letter No.E.II/59/Col.IV/45 dated 25.2.93 of the Telecom Dist. Manager, Kottayam.
8. A-8: True copy of the Order No.STA/1-7/93/II(ii) dated 20.5.93 of the 1st respondent.
9. A-9: True copy of the representation of the 1st applicant dated 14.6.96 to the 3rd respondent.
10. A-10: True copy of the representaton dated 19.1.95 of the 2nd applicant to the 3rd respondent.
11. A-11: True copy of the Order No.ST-III/1-10/2000 dated 9.5.2000 of the 1st respondent.
12. A-12: True copy of the Notification No.A-11019/105/87-AT dated 28th Septemebr, 1993 of the Government of India, Department of Per.&Trg. New Delhi.
13. A-13: True copy of the letter No.STA/1-7/90-IV(Pt.) dated 11.3.91 of the 1st respondent.
14. A-14: True copy of the letter No.STA/1-7/90-IV (Pt.) dated 10.5.91 of the 1st respondent.
15. A-15: True copy of the judgement in Civil Appeal No.3933/92 dated 22.9.92 of the Hon'ble Supreme Court.
16. A-16: True copyof the Memo No.1375/II/114 dated 10.5.2000 of the General Manager Telecom, Kannur.

Respondents' Annexures:

1. R-1a: True copyof the order of the Directorate dated 13.5.93.
2. R-1b: A true copy of the communication NO.232-4/90-STG-II dated 20.6.91 of the Assistant Director General (SGT).
3. R-6a: A true copy of the judgement in Civil Appeal No.3933/92 dated 22.9.92 passed by this Hon'ble Supreme Court.
- 4.. R-8(1): True copy of judgement of the Hon'ble Supreme Court, dated 26.9.92 in Civil appeal No.3933 of 1992.
