

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 274/
~~T. A. No.~~

199 0

DATE OF DECISION 7.11.90

Ialy T. Thomas Applicant (s)

Mr. M R Rajendran Nair Advocate for the Applicant (s)

Versus

U.O.I. rep. by Secretary, M/O Respondent (s)
Communications, New Delhi & others

Mr. P. K. Suresh Kumar, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. N. V. Krishnan, Administrative Member

The Hon'ble Mr. N. Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? ✓
2. To be referred to the Reporter or not? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement? ✓
4. To be circulated to all Benches of the Tribunal? ✓

JUDGEMENT

SHRI N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The applicant has obtained in her favour an order dated 15.2.1989 in O.A.65/88 which directed the respondents to accord her seniority as Telephone Operator with reference to the date of any RTP candidate junior to the applicant appointed on the basis of the ranking in the select list.

2. The applicant contends that when the selection was made she was at Sl. No. 5 and Jalaja Kumari was placed at Sl. No. 6. Appointments had been made on the basis of this select merit list until sl. No. 4 in the list was appointed. Thereafter, the select list itself was revised on the basis of the revised seniority based on the number of RTP days worked. This seniority was challenged in O.A. 65/68 and allowed in her favour.

3. The applicant has prayed for the following reliefs in the present application:

"(i) To direct the second respondent to grant the applicant notional appointment as Telephone Operator at least with effect from the date of regular appointment of her junior and to grant all consequential benefits including fixation of pay, arrears of salary, bonus and leave.

(ii) Grant such other reliefs as may be prayed for and the Tribunal may deem fit to grant, and

(iii) Grant the cost of this Original application."

4. Though the respondents have resisted the application on the ground that she did not file the representation ^{enough} in the proper channel, the learned counsel for the respondents stated during the course of the arguments, that, subsequent to the filing of this Original Application, the respondents have prepared a gradation list of Telephone Operators as on 1.1.1990. He submits that in this gradation list, the direction made by the Tribunal in O.A. 65/88 have been fully met, for while Jalaja Kumari has been placed at Sl. No. 133, the applicant is placed at Sl. No. 132, thus giving her seniority over Jalaja Kumari.

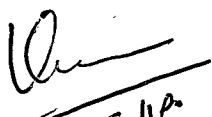
5. The applicant's counsel submitted that though a proper position has been assigned to the applicant, the date of entry in the department and the date of continuous entry in the present cadre mentioned in columns 5 & 6 ^Q will also need correction. At present, the date of 15.9.88 is mentioned in both columns, as ^Q it ^{was} on that date ^{that} she ^{was} appointed. However, the corresponding date of her junior Jalaja Kumari is shown as 5.12.87. The learned counsel submitted that the respondents should be directed to enter the date 5.12.1987 in both these columns as assumed dates. The applicant also claims that the benefit

of pay fixation, arrears of salary, bonus and leave should be given particularly when from 5.12.1987 or earlier she has been working as RTP Telephone Operator. The learned counsel for the respondents submits that while the assumed date 5.12.1987 ^{can,} no doubt be ^{entered,} ~~accorded,~~ the question whether the applicant is entitled to backwages needs consideration.

6. We are of the view that the applicant has been ~~denied~~ regular employment ~~xxx~~ for no fault of hers which in any case should have been considered at least from 5.12.1987. We therefore see merit in the contention of the applicant.

7. In the circumstances, we direct the second respondent to make ^{correction and} ~~xxx~~ in column 5 & 6 of the gradation list as on 1.1.1990, the dates as 5.12.1987, also mentioning that they are assumed dates. We further direct him to pay the applicant the salary as if the applicant was appointed on 5.12.1987 after deducting whatever emoluments, ^{were} given to her as an RTP candidate. ~~xxx~~ Other consequential benefits permissible may also be granted to the applicant within four months from the date of receipt of this order.


(N. Dharmadan)
Judicial Member


(N. V. Krishnan)
Administrative Member