

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.406/2001.

Tuesday this the 4th day of March 2003.

CORAM:

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

N.P.Geevargheese,
Sub Divisional Engineer, Phones,
External (Officiating),
Telephone Exchange, Kothamangalam. Applicant

(By Advocate Shri O.V.Radhakrishnan)

Vs.

1. Principal General Manager,
Bharath Sanchar Nigam Limited,
Ernakulam, Cochin-682 031.
2. Accounts Officer (Establishment),
Office of the Principal General Manager,
Ernakulam, Bharath Sanchar Nigam Limited,
Cochin-682 031.
3. Chief General Manager,
Kerala Circle, Bharath Sanchar Nigam Limited,
Thiruvananthapuram-33.
4. Bharat Sanchar Nigam Limited,
represented by its Chairman and Managing Director,
Sanchar Bhavan, New Delhi.
5. Union of India represented by
its Secretary,
Department of Communication,
Sanchar Bhavan, New Delhi. Respondents

(By Advocate Shri C.Rajendran, SCGSC)

The application having been heard on 4th March 2003,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

The applicant while working as Phone Inspector appeared
in the competitive examination for promotion to the grade of
Junior Telecom Officers(JTOs for short). He having been
successful was selected and sent for pre-appointment training
w.e.f. 7.1.91 to 20.9.91 as per A-2 dated 28.12.90. After
completion of the pre-appointment training he was appointed as

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JTO on 9.10.91 as per A-3 order dated 8.10.91 and his pay was accordingly fixed. One Smt.Sobha, a direct recruit JTO, who was sent for pre-appointment training w.e.f.24.12.90, was drawing more pay as the period of pre-appointment training was treated as service for the purpose of increment. Finding that the applicant's junior Shri Abdul Razack along with five others filed O.A.486/95 for stepping up of pay on par with Sobha and that A-8 order was passed giving the benefit of stepping up of pay to Shri Abdul Razack and similar others, the applicant submitted a representation dated 4.5.2000(A9) to the Principal General Manager, Telecom (Ist respondent). In reply to the above representation, the applicant was given the impugned order A-10 dated 25.9.2000 turning down the claim of the applicant on the ground that the conditions prescribed for stepping up of pay under the revised pay Rules 1997 were not satisfied in the case of the applicant. Aggrieved, the applicant has filed this O.A. seeking to set aside the impugned order A-10, for a declaration that the applicant is entitled to stepping up of his pay to that of his junior Sri Abdul Razack with effect from 10.10.1991, the date on which the pay of Sri Abdul Razack was stepped up to that of his junior Smt.S.Sobha and for appropriate directions.

2. The respondents in their reply statement contend that the pay of Sri.Abdul Razack was stepped up on par with Smt.Sobha on the basis of the orders of the Hon'ble Tribunal in O.A.486/95 and that the applicant who has applied for stepping up of pay only on 4.5.2000, i.e.after the implementation of the recommendations of 5th Pay Commission, the conditions therein have not been satisfied, the applicant is not entitled for stepping up of his

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pay on par with his junior Sri Abdul Razack as per the provisions contained in CCS(RP) Rules, 1997.

3. We have heard Shri O.V.Radhakrishnan, learned counsel for the applicant and Shri C.Rajendrran, SCGSC appearing for the respondents.

4. On a perusal of the pleadings and material placed on record and on hearing the learned counsel on either side, we find little reason in the contention of the applicant that the applicant is not entitled to stepping up of pay on par with his juniors Abdul Razack and Smt.Sobha. From A-6, the Government of India, Department of Personnel and Training O.M.No.16/16/89-Estt.(Pay-I) dated the 29th March, 1993 regarding the stepping up of pay of departmental candidates from the DNI of direct recruit whose training period was counted for increment which reads as follows:

[G.I., Dept.of Per. & Trg., O.M.No.16/16/89-Estt.(Pay-I), dated the 29th March, 1993].

Stepping up of pay of departmental candidate from the DNI of direct recruit whose training period was counted for increment.

This Department's O.M.No.16/16/89-Estt. (Pay-1) dated 22.10.1990 (GIO (1) below FR 26) provides that the training period counts as duty for the purpose of drawing increments in the case of a peson selected for regular appointment who is required to undergo training (whether on remuneration of stipend or otherwise) before formally taking over charge of the post.

2. Certain cases have been brought to the notice of the Government of departmental candidate already in Government service whose period of preservice training does not count as duty for the purpose of incremetns in the scale of pay of the new post to which he is appointed and thereby causing him to draw less pay than a direct recruit junior to him because in latter's case, this

period counts as duty for the purpose of increments in the post to which he is appointed. The anomaly may arise because this period in the case of the departmental candidate counts as duty in the scale of pay in which the pay is drawn by the candidate and is entitled to fixation of pay in the higher post with reference to the pay already drawn in terms of FR 22 or any other corresponding rules or order. This anomaly sets in either from the date of his promotion or from the date of next increment of the direct recruit.

In order to remove the aforesaid anomaly, it has been decided to step up the pay of a candidate already in Government service from the date of next increment of direct recruit junior to him. However, the stepping up of pay is to be allowed only if the anomaly is due to direct application of the provisions contained in this Department's O.M. of even number, dated 22.10.1990."

5. Paragraph 3 of the above quoted makes it clear that where there is an anomaly arising out of not counting the period of pre-appointment training in respect of the departmental candidates who have been selected and sent for pre-appointment training to higher post, the Government has decided to step up their pay on par with that of direct recruit juniors. In this case that Smt. Sobha who is a direct recruit, is junior to the applicant in the cadre of JTOs and that Smt. Sobha is drawing higher pay, is not disputed. It is also not disputed that, Shri Abdul Razack who is junior to the applicant raised similar grievance and that on the basis of the directions contained in the Tribunal's order to consider his representation, the pay of Abdul Razack was stepped up on par with that of Smt. Sobha. We find no justification in not extending the same benefit to the applicant. When Shri Abdul Razack was found entitled to stepping up of pay on merits, we find little reason for not extending the same benefit to the applicant.

6. In the light of what is stated above, the application is allowed. Impugned order A-10 is set aside and the respondents

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are directed to step up the pay of the applicant on par with the pay of Shri Abdul Razack and Smt. Sobha who are juniors of the applicant. Appropriate orders should be passed and the consequential monetary benefits should be made available to the applicant within a period of one month from the date of receipt of copy of this order. There is no order as to costs.

Dated the 4th March, 2003.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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