

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW BOMBAY BENCH

Q.A. No.  
T.A. No. 412/87

198

DATE OF DECISION 21-6-1991Shri M.L.Prasad and ors. PetitionerShri P.K.Dhakephalkar Advocate for the Petitioner(s)

Versus

Union of India and ors. RespondentShri P.M.Pradhan Advocate for the Respondent(s)

## CORAM

The Hon'ble Mr. U.C.SRIVASTAVA, VICE-CHAIRMAN

The Hon'ble Mr. M.Y.PRIOLKAR, MEMBER (A)

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. Whether it needs to be circulated to other Benches of the Tribunal ?

(22)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH  
NEW BOMBAY

TRANSFER APPLICATION NO:412/87

Shri M.L.Prasad,  
IV/3/16 T.F.Quarters, Deonar,  
Bombay - 88

2. J.Son Gupta,  
IV/3/15, T.F.Quarters,  
Deonar, Bombay - 88

3. V.J.Gurbani,  
Asstt. Manager (Purchase)  
Telecom Factory, Wright Town  
Jabalpur (M.P.)

4. A.K.Bhattacharya,  
III/3/16, T.F.Quarters,  
Deonar, Bombay - 88

5.P.T.Gopalan,  
IV/1/2 & T.F.Quarters,  
Deonar, Bombay -88

6. Bikas Chathopaldhyaya,  
Assistant Manager,  
T.F.Jabalpur.

.... Applicants

Vs.

Union of India  
and others.

CORAM : HON'BLE JUSTICE SHRI U.C.SRIVASTAVA

HON'BLE MEMBER SHRI M.Y.PRIOLKAR, M(A)

Appearance :

Shri P.K.Dhakephalkar,  
adv. for the applicants

Shri P.M.Pradhan,  
Adv, for the respondents

JUDGMENT

(PER : M.Y.PRIOLKAR, M(A)

DATED: 21-6-1991.

This is the original Writ Petition No.1779 of 1984 filed in the Bombay High Court which has been transferred to this Tribunal under Section 29 of the Administrative Tribunals Act, 1985 and renumbered as Transferred Application

No.412 of 1987. The applicants are promotees working as Assistant Managers (Factories) in the Telecom factories Organisation and are challenging Rule 11 of the Posts and Telegraphs Telecom Factories Organisation (Class I Posts) Recruitment Rules 1971 as amended in 1976 and the Seniority lists based thereon published in 1978 and 1979 as violative of Articles 14 and 16 of the Constitution of India, on the ground that under that Rule, the promotees will always be required to have 5 years of experience in the grade of Assistant Manager for promotion to the grade of Senior Engineers while direct recruits can be so promoted without the requisite experience of 5 years. The prayers in this transferred application are for quashing and setting aside Rule 11 of the 1971 Recruitment Rules as also the promotions given on the basis of this Rule and for direction to official Respondents to prepare a seniority list of Assistant Managers on the basis of the length of service in that cadre and for all incidental promotions and financial benefits to the applicants.

2. This matter has since been finally settled by the judgment dated 8.5.1987 of the Principal Bench of this Tribunal in Transferred Application No.476/1985 (original Writ Petition No.794/79 filed in Delhi High Court) by which the Tribunal quashed and set aside the seniority list of 1978, which is also the list challenged in the present application, and directed that the same should be revised in accordance with the general principles of seniority as given in the Recruitment Rules of 1971. The relevant extract from this judgment dated 8.5.1987 is reproduced below:-

"We allow the petition to the extent of quashing the seniority lists 1/4.5.1978 and 10.7.1978 and

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direct that these seniority lists should be revised as in 1978 by keeping the promotees who were promoted as AMFs in the promotion quota before 5.2.1972 en bloc above the direct recruits who were appointed as AMF after 5.2.1972. So far as the petitioners who were promoted after 5.2.1972 are concerned, their interse seniority viz-a-viz direct recruits appointed after 5.2.1972 will be determined on the basis of the 1971 rules read with the Home Ministry's O.M. of 23.12.1959 and will be subject to the various relevant rulings of the Supreme Court governing such cases. The seniority list so revised should be circulated by inviting objections within a month and should be finalised within two months thereafter. A review DPC should be held on the basis of the revised seniority list so finalised and those of the petitioners who are found suitable for promotion to the next higher grade should be so promoted notionally with effect from the dates their juniors in the revised seniority list whether direct recruit or promotees were so promoted.

In order to avoid dislocation of work, we would not direct any reversion of officers who have already been promoted to higher grades but would nevertheless direct that the petitioners and others who are thus, notionally promoted should be given financial compensation with regard to such promotions with effect from the dates their juniors who were actually promoted to these grades."

3. The decision of the Tribunal in this case was thus broadly as follows:

i) Seniority list as in 1978 should be drawn afresh

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- ii) Promotees before 5.2.1972 should be enbloc above the direct recruits appointed after 5.2.1972.
- iii) Interse seniority of the promotees and direct recruits should be fixed on the basis of 1971 Rules subject to the various Supreme Court rulings.
- iv) There will no no reversions but some financial compensation will be given to those notionally promoted.

Evidently, therefore, the seniority list of 1978 which is the main plank of the present application does not survive. The validity and legality of Rule 11 of the Recruitment Rules of 1971 dealing with the method of fixation of seniority in the grade of Assistant Manager has been accepted by the Tribunal. The responcents have stated that a revised seniority list has been drawn by them in compliance with the Tribunal's direction and finalised after taking into consideration the objections raised by all concerned including the applicants. This fresh seniority list was published on 1.9.1987.

4. No doubt, the present applicants were not parties in T.A.No.476 of 1985 before the Principal Bench of this Tribunal at New Delhi, but its judgment dated 8.5.1987 in service matters having all the attributes of a judgment in rem will evidently be binding on similarly placed non-parties as well. This judgment puts to rest the whole controversy in the present application and the validity of the fresh seniority list published on 1.9.1987 in compliance with the Tribunal's direction cannot be questioned in this application through rejoinder affidavit or miscellaneous application/s.

as has been done in this case. Since the impugned seniority lists in the present transferred application are no more in existence, we have to hold that the present application no longer survives and is, accordingly dismissed with no order as to costs.



(M.Y.PRIOLKAR)  
Member (A)



(U.C.SRIVASTAVA)  
Vice-Chairman