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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY.

Original Application No.630/88.

Shri Ambadas L.Rodge.

... Applicant.

V/s.

The General Manager,
Telecommunications,
Maharashtra Circle,
Bombay, & five others.

... Respondents.

Coram: Hon'ble Member(A), Shri P.S.Chaudhuri,
Hon'ble Member(J), Shri T.C.Reddy.

Appearances:-

Applicant by Shri N.Kamalakar.
Respondents by Shri Ramesh Darda.

JUDGMENT:-

(Per Shri P.S.Chaudhuri, Member(A)) Dated: 13.9.1991

This application under section 19 of the Administrative Tribunals Act, 1985 was filed on 11.8.1988. In it the applicant who is working as Telephone Operator, Akola is seeking a direction for showing the applicant as an SC candidate in the Gradation list/Seniority list of Telephone Operators of Akola Division and for a direction to issue a fresh confirmation date for him.

2. The applicant was recruited as Telephone Operator in Pune Division and after completion of his training was posted in Bombay East Division where he reported for duty on 21.4.1962. Due to bifurcation of the Division he was transferred to Akola Division on option without loss of seniority. He was confirmed on 22.10.1986 by O.M. dt. 4.3.1986. A gradation list/seniority list of Telephone Operators of Akola Division as on 1.7.1985 was circulated. The applicant received a copy of this on 11.9.1986. He noticed that the list did not mention that he belongs to the S.C. and also that it assigned a higher seniority position to Respondents No.4 to 6 even though their dates of recruitment were 17.8.1962, 20.10.1962 and 19.9.1962, i.e. after the applicant. The applicant sent a representation dt. 5.5.1987. In reply

the applicant was asked to produce a Caste Certificate from the Tahsildar which he did on 2.2.1988. As he heard nothing further in the matter he filed the present application.

3. The respondents 1 to 3 have filed their written statements in which they have stated that they are agreeable to the correction of the above mentioned list restricted, however, to the applicants Caste being shown as SC on his having produced the necessary certificate. During the Circuit Sitting at Nagpur we heard Mr.N.Kamalakar, learned counsel for the applicant and Mr.Ramesh Darda, learned counsel for the respondents.

4. As regards correcting the departmental record to show that he belongs to a SC, it is the applicant's contention that he had submitted his Caste Certificate at the time of his recruitment. Respondents No.1 to 3 denied this and submitted that the entry in his service book is that he belongs to Caste "Hindu-Mahar". The applicant has however, filed some documents which show that he did raise the matter in 1979 and pursued it till 1980. Then, there is a gap and he started all over again in 1987. No explanation for this inaction is forthcoming. A gradation list was issued on 12.1.1983 also, but the applicant even then did not act. Against this background, there is no doubt that the applicant is entitled to being shown as being a member of the SC, subject of course, to his caste certificate being found to be in accordance with the rules. The question which arises is from what date will he get this benefit. In view of the circumstances which we have narrated earlier we have no hesitation in holding that the applicant should get this benefit only from 5.5.1987 which is the date on which he has now asked for an entry to this effect.

5. As regards the applicant's placement at a higher position in the seniority list, the respondents contend that the position is no different to what it was in the earlier gradation lists published on 24.1.1978 and 12.1.83. We see merit in the respondents' submissions. It is well settled that utmost expedition is the sine qua non for claims pertaining to seniority. The party aggrieved must move at the earliest possible time and explain satisfactorily all semblance of delay. - see Malcom Lawrence Cecil D'Souza v. Union of India and others AIR 1975 SC 1269 in which it has been held:

"Satisfactory service conditions postulate that there should be no sense of uncertainty amongst public servants because of stale claims made after lapse of 14 or 15 years. It is essential that any one who feels aggrieved with an administrative decision affecting one's seniority should act with due diligence and promptitude and not sleep over the matter."

No cogent ground has been shown as to why the petitioner became qui@sget and took no diligent steps to obtain redress. What is more, we do not even have jurisdiction in respect of the 1978 seniority list - see V.K.Mehra v. Secretary, Ministry of Information & Broadcasting, AIR 1986 CAT 203 - in which it has been held that we do not have jurisdiction in respect of grievances arising from an order made before 1.11.1982. Against this background we must reject this submission of the applicant.

6. Coming now to the last prayer regarding date of confirmation, the cause of action in this regard arose in 1966. So, we must reject this submission for the very same reason that we have just mentioned regarding the applicant's claim for seniority. Besides, we are unable to go along with the applicant's reasoning that because his seniority is to be revised,

his date of confirmation, too, must be revised. The position is actually the other way round, viz. that seniority flows out of the date of confirmation. So, we must reject this submission also.

7. In this view of the matter we are of the opinion that this application deserves to be partly allowed only in respect of the applicant's claim for having the departmental record amended to show him as a Scheduled Caste. Of course, the benefits from this will be restricted to those accruing from the said entry being made on 5.5.1987. We are conscious that this may result in promotion with retrospective effect. So we would clarify that if the consequential benefits include promotion to a higher post with retrospective effect his pay in the higher post will be fixed after giving him notional seniority so that the pay so fixed is not lower than those who are immediately below him, but no arrears will be payable prior to the date of this order - see Paluru Ramakrishniah and Ors. v. Union of India and Another, AIR 1990 SC 166.

8. We accordingly direct the respondents No.1 to 3 to correct their record to show the applicant as an SC and to grant him consequential benefits, if any ~~not~~, arising therefrom w.e.f. 5.5.1987 in terms of the clarifications given earlier. In the circumstances of the case there will be no order as to costs.

T. Chendrasekharan
(T.C. REDDY)
MEMBER (J)

P.S. CHAUDHURI
MEMBER (A)

13-9-1991