

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400614

ORIGINAL APPLICATION No. 88/1986

Shri Jitendra Mohan
Additional General Manager
Bombay Telephones
Prabhadevi Telecom Building
5th Floor
Veer Savarkar Marg
Dadar (West)
Bombay 400028

Applicant

V/s.

Union of India
through Deputy Director General
(Telecom Factory),
Telecom Board
Sanchar Bhawan
Parliament Street
NEW DELHI 110001

Respondent

Coram: Hon'ble Vice Chairman (J) B C Gadgil
Hon'ble Vice Chairman (A) B C Mathur

Appearance:

The applicant in person

Shri S.R. Atre (for
Shri P.M. Pradhan)
Advocate
for the Respondents

ORAL JUDGMENT

Dated : 25.11.1987

(Per: B.C. Gadgil, Vice Chairman)


The short question in this case is as to whether the applicant is entitled to get deputation allowance from 18.4.1983 to 31.11.1983.

2. A few facts would be relevant. The applicant was working as a Director, Posts and Telegraphs Board, before 18.4.1983. It is an Indian Telecommunication Service and of Junior Administrative Grade. He went

on deputation as General Manager, Telecom Factory. This post is a General Central Service. The applicant's case is that he is entitled to get deputation allowance from the date he took charge on 18.4.1983. The Government considered this aspect of deputation allowance and took a decision on 15.2.1984 to grant deputation allowance to persons like the applicant. However, it was directed that such deputation allowance should be paid from 1.12.1983. The applicant's contention is that this fixation of date i.e., 1.12.1983 is arbitrary and that once having taken decision to grant deputation allowance the applicant must get the same from 18.4.1983.

3. The respondents have denied this claim by contending that the applicant can claim deputation allowance only from 1.12.1983.

4. We have heard the applicant in person and Mr. S.R. Atre (for Shri P.M. Pradhan), Counsel for the respondents. Mr. Atre raised two contentions. He argued that under the rules a person who goes on promotion on deputation is not entitled to deputation allowance. According to him the applicant went on promotion as General Manager and consequently he cannot claim deputation allowance. However, the position seems to be otherwise. We are shown the orders dated



15 January 1983. Para 3 of that order states that the applicant (along with other persons) from the Junior Administrative Grade of ITS service were appointed to officiate in Level-II of Senior Administrative Grade of the said service (Group-A). It is after such appointment to the Level-II post that the applicant was appointed as General Manager, Telecom Factory, Bombay. Thus before sending the applicant on deputation as General Manager, he was already promoted to the higher post. In this view of the matter it will not be open for the respondents to contend that the applicant was sent on promotion to the said Telecom Factory. We may add that in the said order one of the juniors to the applicant viz., Shri K. Radhakrishnan has been so promoted in the same service.

5. Mr. Atre then urged that the Government orders are specific that the deputation allowance should be granted with effect from 1.12.1983. It is true that the orders are specific, however, they cannot be legal in view of the fact that the applicant has been working on deputation from 18.4.1983. Fixing the date as 1.12.1983 appears to be an arbitrary fixation and the ~~notification passed on~~ such arbitrary fixation of date will not be ^{legal} allowed. We may with advantage state that similar view is also taken by the Hyderabad Bench in Original Application No. 381/86. Hence we pass the following order:

ORDER

The application is allowed. The respondents are directed to pay to the applicant deputation allowance from 18.04.1983 to 30.11.1983 within two months from to-day.

Parties to bear their own costs.



(B C Mathur)
Vice Chairman(A)



(B C Gadgil)
Vice Chairman(J)