

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

Transferred Application No. 166/86.

Mrs. Sarojinibai Santosh Tare,
Plot No.7, Flat No.2,
Opposite Savarkar Nagar,
Nagpur.

... Applicant.
(Original Petitioner)

V/s.

1. The Union of India through its Director General, P & T Department Dak Tar Bhavan, New Delhi.
2. General Manager, Tele-communication, Maharashtra Circle, Bombay.
3. The District Manager, Telephones, Nagpur.
4. Shri D.V.Warney, Telephone Supervisor Trunk/Exchange (functional) R/o Trunk Exchange C.T.O.Compound, Nagpur.
5. Shri R.L.Rewatkar, Telephone Supervisor, C/o C.T.O., Compound, Nagpur.
6. Shri D.C. Mathure, Telephone Supervisor, C/o C.T.O. Compound, Nagpur.
7. Shri S.D.Chalpe, Telephone Supervisor, C/o C.T.O. Compound, Nagpur.

... Respondents.

Coram: Hon'ble Member (A) P.Srinivasan.
Hon'ble Member (J) M.B.Mujumdar.

Appearances.

1. Mr. Y.B.Phadnis, Learned Counsel for the Applicant.
2. Mr. S.R.Atre, learned Counsel for the Respondents.

ORAL JUDGEMENT (Per P.Srinivasan)

Dated: 15.4.1987.

The applicant, who is currently working as Junior Supervisor (20% operation) in the department of telecommunications at Nagpur filed this application originally as Writ Petition No.2322 of 1984 which on transfer to this Tribunal has been re-numbered as Transferred Application No. 166/86.

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The grievance of the applicant is that she has not been accorded seniority to which she is entitled in the initial grade of Telephone Operator and as a consequence she has been denied promotional opportunities which would otherwise have been accorded to her.

The applicant joined as a Telephone Operator in the Andhra Pradesh Circle of the then Posts & Telegraphs Department and was posted at Vizagapattinam on 13.8.47. Subsequently, at her own request, she was transferred to what was then known as the Central Circle of the said Department at Nagpur where she joined on 8.9.55. According to Rule 38 of the P & T Manual Vol. IV, when a person is transferred on his own request from one circle to another, he has to take the bottom seniority in the cadre in the circle to which he is so transferred. As a result of the judgement of the Supreme Court in the case of Ravi Vafma Vs. Union of India and others reported in AIR 1972 SC 670, the seniority of persons appointed to Government Service between 22.6.49 and 22.12.59 has to be regulated according to their length of continuous officiation in the cadre. Following the ratio of this judgement seniority of Telephone Operators working in Central Circle at Nagpur was fixed by the Respondents. So far as the applicant was concerned, her continuous officiation from 8.9.55 was taken into account and not her earlier service in the erstwhile Andhra Pradesh Circle.

Mr. Y.B. Phadnis, the learned counsel for the applicant, contends that the seniority list of Telephone Operators in the present Maharashtra Circle drawn up by the Respondents as on 1.1.77 has not been properly prepared and as a result thereof his client had gone down in the list. This has resulted in delaying her promotion to higher grades which is purely on the basis of seniority-cum-fitness. He fairly conceded that for


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the purpose of determining the seniority of his client vis-a-vis other Telephone Operators, her services can be counted from 8.9.55, the date on which she joined the Central Circle at Nagpur. His contention was that according to the rule of continuous officiation, persons who were recruited as Telephone Operators in the then Central Circle and the present Maharashtra Circle after 1955 cannot be placed above his client in the seniority list. He also contended that persons transferred to the Central Circle at Nagpur or to the present Maharashtra Circles under Rule 38 of the P & T Manual Vol. IV, after 8.9.55 cannot also be given higher positions of seniority above his client. His plea is that this principle has not been adhered to in the seniority list of Telephone Operators as on 1.1.77. Though in the application a reference is made to Respondents 4 to 7, Shri Phadnis would be satisfied if the principle of seniority as stated by him is followed in fixing the seniority of his client, irrespective of what the position Respondents 4 to 7 may be.

Sri S.R.Atre, learned counsel for Respondents contends that the seniority list of Telephone Operators as on 1.1.77 had indeed been fixed on the basis of continuous officiation in the cadre. Certain errors which had ~~kept~~ ^{crept} in and had been pointed out by Shri Phadnis in that list had since been rectified. If there are any more errors, the respondents have no objection to rectify them. He had no quarrel with the principle of seniority based on continuous officiation in respect of persons appointed between 22.6.49 and 22.12.59. The service of the applicant for this purpose, he also agreed, would be counted from 8.9.1955. So far as the Respondents 4 to 7 are concerned, Shri Atre explained that the respondents had re-fixed their seniority as a consequence of the judgement of the Bombay High Court in W.P.No.992/1974, 2318/80, 154/81 and 166/81 in which these respondents had figured either as

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Respondents or as Intervenors.

We have considered the rival contention very carefully. We entirely agree with Shri Phadnis that so far as the applicant is concerned, since she joined in the Central Circle at Nagpur on 8.9.55 under Rule 38, i.e. between 22.6.49 and 22.12.59, her seniority is governed by the Principle of continuous officiation in accordance with the judgement of the Supreme Court in 1972 AIR SC 670 in the case of Ravi Verma v/s. Union of India and Others. Therefore, his contention that seniority of Telephone Operators in the Central Circle at Nagpur and subsequently in the Maharashtra Circle of persons who were appointed during the said period including the applicant be fixed on the basis of continuous officiation has necessarily to be accepted. For the purpose of counting the length of the applicant's service for this purpose, her date of entry into service will be reckoned from 8.9.55 as fairly admitted by Shri Phadnis. So far as the Respondents 4 to 7 are concerned, it is not clear to us as to how the Respondents determined their seniority because on reading the judgement of the High Court to which reference has been made we do not find anything to suggest that their seniority required to be altered. However, we leave the matter at that ~~and~~ for the Respondents to do whatever they deem necessary.

We do not propose to examine every name in the seniority list challenged by the applicant to ascertain whether the principle of continuous officiation has been violated. It is up to the applicant to point out to the Respondents any discrepancy in the seniority list from the point of view of the principle of continuous officiation and for the Respondents to correct such genuine errors as pointed out by her. In the result, we issue the following directions.

- 1) The Respondents will review the impugned seniority list and redraw it on the principle of continuous officiation in the cadre of Telephone Operators in respect of persons appointed between

22.6.49 and 22.12.59 counting the service of the applicant for this purpose from 8.9.1955. If, as a result of this exercise, the applicant gains seniority the Respondents will grant to her all consequential benefits flowing therefrom including monetary benefits, ^{Army} ^{we hope the} respondents will do ^{as} with all possible ^H ^M expedition.

2) The application is disposed of accordingly. Parties to bear their own costs.

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MEMBER (A) 15/4/87


MEMBER (J)

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