

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 47 of 2000.

Dated this Friday, the 15th day of September, 2000.

Smt. Mrunalini Raisingh Jaswal, Applicant.

Shri B. Dattamoorthy, Advocate for the  
applicant.

VERSUS

Union of India & Others, Respondents.

Shri S. S. Karkera, Advocate for  
Respondents.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).  
Hon'ble Shri S. L. Jain, Member (J).

- (i) To be referred to the Reporter or not ?
- (ii) Whether it needs to be circulated to other Benches  
of the Tribunal ?
- (iii) Library.

} No  
B. N. BAHADUR  
(B.N. BAHADUR)  
MEMBER (A).

OS\*

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Hon'ble Shri S. L. Jain, Member (J).

Smt. Mrunalini Raisingh Jaswal,  
Ex-Senior Supervisor,  
(B.C.R. Grade-III),  
Residing at Bldg. No. 41/808,  
Azad Nagar No. 2, Veer Desai Rd.,  
Andheri (West),  
Mumbai - 400 053.

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Applicant.

(By Advocate Shri B. Dattamoorthy)

VERSUS

1. The Union of India through  
The Chairman,  
Telecom Commission,  
Department of Telecom,  
Sanchar Bhavan, Ashoka Road,  
New Delhi - 110 001.

2. The Chief General Manager,  
Mahanagar Telephone Nigam Ltd.,  
Telephone House, Prabhadevi,  
Dadar (East), Mumbai - 400 028.

3. The Chief General Manager,  
Maharashtra Telecom Circle,  
Fountain Telecom Bldg. No. 11,  
M.G. Road, Fountain,  
Mumbai - 400 001.

4. The General Manager,  
(Long Distance), M.T.N.L.,  
Charanjit Rai Road, Fort,  
Mumbai - 400 001.

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Respondents.

(By Advocate Shri S. S. Karkera)

OPEN COURT ORDER

PER : Shri B. N. Bahadur, Member (A).

This is an application filed by Smt. Mrunalini Raisingh Jaswal, seeking the relief in substance that she be declared as



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entitled for consideration to place in Grade IV B.C.R. with effect from 24.10.1990. We have heard the Learned Counsel Shri B. Dattamoorthy for the Applicant and Shri S. S. Karkera for the Respondents.

2. There is an application for Condonation of Delay filed in this case by Applicant vide M.P. No. 101/2000. In fact, the Learned Counsel stated that this was not really necessary on the plea of continuing cause of action. In fact, his stand is correct in terms of the ratio laid down by the Supreme Court in the case of M. R. Gupta's case reported in 1995 SCC (L&S) 1273

3. The facts of the case are simple, in that, the grievance of the applicant is that she was not even considered when the Department took a review for consideration of placement of others in the aforesaid grade IV B.C.R. The said consideration for promotion was doubtlessly made in the year 1995 i.e. subsequent to the retirement of the Applicant on 30.11.1991. However, the basic contention of the Applicant is that the date from which the effect of such placement was given was 24.10.1990 when the Applicant was very much in service. The seniority list which was the basis of consideration for such elevation pertains to the year 1992 (01.07.1991) where again the applicant was in service.

4. The Learned Counsel, Shri B. Dattamoorthy, placed the facts and arguments before us with special reference to the O.M. No. 22011/4/98-Estt.(I) dated 12.10.1998 and made the point that in accordance with the instructions of Government in this very O.M., the case of the Applicant should have been considered as a

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matter of right. He prays that a direction may be given for consideration of Applicant's case according to her correct seniority in accordance to the rules.

5. The Learned Counsel for the Respondents has fairly admitted the applicability of the O.M. and states with reference to the relevant portion of his reply at para 11 on page 78 and para 14 on page 79, that a review is indeed due in respect of such cases as per D.O.T. instructions received by the Department. Now that the position has been fairly admitted by the Learned Counsel for Respondents, we do not find it necessary to go to detailed reasonings in the case.

6. We must however note that the O.M. dated 12.10.1998 provides valid support to the case of the Applicant, apart from the agreement shown on behalf of Respondents.

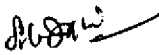
7. This O.A. is, therefore, allowed to the extent and in terms of the following order :

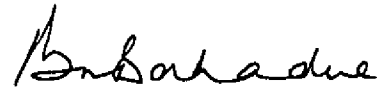
- (a) The Respondents are directed to consider the case of the Applicant for placement in Grade-IV B.C.R. on merits and in accordance with the rules. The correct and relevant seniority of the Applicant will be taken into account for this purpose. A review meeting of D.P.C. shall be held for the purpose and a decision taken on the Applicant's case, as stated above. The decision will be taken not later than within a period of four months from the date of receipt of a copy of this order.



(b) In case the Applicant is found fit as the result of the consideration of her case by D.P.C., she will be entitled to notional fixation/re-fixation of pay only for purpose of pension and pensionary benefits in accordance with the rules.

(c) There will be no order as to costs.

  
(S.L. JAIN)  
MEMBER(J)

  
(B. N. BAHADUR)  
MEMBER (A).

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