

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Dated this Tuesday the 22nd day of October, 2002

Coram: Hon'ble Shri Justice Birendra Dikshit - Vice Chairman
Hon'ble Shri B.N.Bahadur - Member (A)

O.A.254 of 2001

Shri Mohan R.Dixit,
Sub Divisional Engineer,
O/o G.M. (E-II), MTNL, Staff No.15754
R/o Paravti Nivas,
Chatrapati Sambhaji Path,
Ghantali, Navpada, Thane.
(By Advocate Shri S.P.Kulkarni)

- Applicant

Versus

1. Union of India,
through the Chairman,
Telecom Commission, PCHQ,
Sanchar Bhavan, Ashoka Road,
New Delhi - 110 001.
2. The Chief General Manager,
MTNL Telephone House,
Prabhadevi Dadar (West),
Mumbai.
3. Shri Ram Autar,
Assistant Director General (SGT),
O/o Director General,
Department of Telecommunications,
Sanchar Bhavan, New Delhi.
(By Advocate Shri V.S.Masurkar)

- Respondents

ORAL ORDER

By Hon'ble Shri B.N.Bahadur, Member (A) -

The Applicant in this case has come up to the Tribunal seeking relief as follows:-

(A) This Hon'ble Tribunal be pleased to call for the entire records of the case of the Applicant and after examining the legality and propriety thereof be pleased to quash and set aside the impugned orders dated 30th March, 2001, 23.3.2001 and 26.3.2001 (Exhibits A, B & C).



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(B) This Hon'ble Tribunal be further pleased to hold and declare that the impugned seniority dated 22.3.2001 and 26.3.2001 contrary to the judgment of the apex Court.

(C) This Hon'ble Tribunal be further pleased to direct the Respondents to restore the seniority of the Applicant as published vide Respondents order dated 16th October, 1997 (Exhibit -D) and grant promotions.

(D) Pass any such other order or orders as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.

2. We have heard the learned counsel for the Applicant and Respondents Shri S.P.Kulkarni and Shri V.S.Masurkar, respectively and have perused the records of the case. At the outset, learned counsel Shri Kulkarni drew our attention to Pages 100 and 101 of the Paper Book to inform us that the Principal Bench of the Tribunal at New Delhi had heard a batch of cases at which time Respondents had prayed for inclusion of the present OA also, but this prayer of the Respondents was rejected (Page 101) and hence this OA has not been heard by Principal Bench.

3. At this point, Shri Masurkar has provided us with a copy of the order made in the batch of OAs 1914/2001 and 2945/02 heard


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and decided by the Principal Bench on 16.7.2002. Shri Masurkar made a point that this OA before us is covered by the aforesaid judgment.

4. Indeed as pointed out, we find that from a perusal of Para 8 of present OA and perusal of Para 2 of the judgment of the Principal Bench, the prayers are indeed identical. The prayers have been rejected by the Principal Bench. We have nevertheless heard Learned Counsel Shri Kulkarni on merits to ascertain if there are any grounds which could persuade us to differ and refer the matter for hearing by Larger Bench. Learned counsel Shri S.P.Kulkarni drew our attention to pages 50 -51 of the judgment of the Hon'ble Supreme Court in the case of Union of India vs. Madras Telephone SC & ST Social Welfare Association, (2000 (2) SCSLJ 1), a copy of which has been made available at page 45. In the matter he has drawn our attention to paragraph 10 onwards of the judgment (pages 51 and 52) and tried to argue the case for benefits similar to those given to Parmanand Lal and Brij Mohan. He has sought to take advantage of the last lines of Para 10. We have read these and it is clear to us that the Hon'ble Apex Court was only providing protection to those who had been promoted already because of certain Court judgments in their favour. This does not provide any benefit in respect of seniority. The ratio of the judgment of the Hon'ble Supreme Court is clearly against the Applicant.



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OA 254.01

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5. We find no reason to differ with the reasoning and conclusions arrived at by the Division Bench of C.A.T., New Delhi made in its aforesaid judgment of 16.7.2001. Under the circumstances, we are not convinced that the Applicant is entitled to the benefits that he seeks in the OA; his prayers are liable to be rejected. The OA is therefore dismissed with no order as to costs.

B.N. Bahadur

(B.N. Bahadur),
Member (A)

mb

B. Dikshit

(Birendra Dikshit)
Vice Chairman