

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

(9)

O.A. NO: ~~3020~~ 3/90. 199

T.A. NO:

DATE OF DECISION 10.1.1992

Prabhakar Gajanan Gokhale Petitioner

Mr. K.D. Kulkarni Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Mr. V.S. Masurkar Advocate for the Respondent(s)

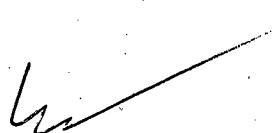
CORAM:

The Hon'ble Mr. Justice U.C. Srivastava, V/C

The Hon'ble Mr. A.B. Gorthi, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

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( U.C. Srivastava )  
V/C

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY

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(16)

Original Application No. 3/90

Prabhakar Gajanan Gokhale,  
R/o. B-1, Shri Laxmi Apartment,  
Sarswat Colony, Opp. Achalkar Bldg.,  
Dombivli (East), Dist. Thane. ... Applicant

v/s

1. Union of India through  
its Secretary Telecom,  
Sanchar Bhavan Road,  
New Delhi.
2. The Chief General Manager,  
MTNL Bombay,  
Telephone House, Bombay 25.
3. The Chief General Manager,  
Telecom - Maharashtra,  
Bombay GPO. ... Respondents

CORAM : Hon'ble Vice-Chairman, Shri Justice U.C.Srivastava  
Hon'ble Member (A), Shri A.B.Gorthi

Appearances:

Mr. K.D.Kulkarni, Advocate  
for the applicant and  
Mr. V.S.Masurkar, Counsel  
for the respondents.

ORAL JUDGMENT:

Dated : 10.1.1992

(Per. U.C.Srivastava, Vice-Chairman)

By means of this application the applicant has prayed that the anomaly in his pay may be removed with retrospective effect and he may be paid more than what his co-workers received and his pay may be revised with retrospective effect from time to time till today with effect from 15.4.1981 viz. from the date of stagnation in the cadre of Junior Engineer and he may be paid arrears difference of pay and allowances caused due to the anomaly. Admittedly that during the pendency of this application the applicant has retired from service. The application is opposed by the respondents who have stated that the applicant has chosen a particular cadre voluntarily and now cannot go back to the cadre from which he has come because he has

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derived benefits in this cadre. Now when he found that <sup>in</sup> the earlier cadre <sup>to</sup> in which he belonged more benefits were given he started the present litigation. It appears that the applicant <sup>was</sup> belonging to the Selection Grade in the P.I. Cadre before promotion and in SGPI to which he earlier belong his erstwhile colleagues are drawing higher pay than what he was drawing as J.E. on promotion. The promotion to J.E. cadre is not in the normal line of promotion from other cadres. The officials not only belonging to P.I. cadre but belonging to other cadres like TA, AEA and WO are all eligible provided they come out successful in the competitive examination of 10% vacancies. The vacancies are also reserved for Transmission Assistants, Phone Inspectors, Auto Exchange Assistants and Wireless Operators on seniority-cum-fitness basis through a separate qualifying examination. The officials working in the time scale of the above cadres as also the officials working in selection grade in the above cadres are all eligible to appear ~~in~~ the qualifying examination. The applicant was belonging to Selection Grade in P.I. cadre before promotion. His erstwhile colleagues started getting higher pay only with effect from April 1982 whereas as J.E. the applicant was getting more pay than his colleagues from April 1977 and thus for five years he enjoyed higher pay than his colleagues. The maximum pay scale of SGPI was revised from Rs. 640/- to Rs. 750/- and the scale of pay of SGJE is Rs. 550-900. The applicant started claiming the same although his pay was fixed in April 1977 under FR 22C as JE as Rs. 640/- as against Rs. 600/- in the SGPI. The applicant has admitted that on his volition he wrote JE examination and became J.E. The learned counsel for the applicant contended that as no option was taken from the applicant

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and because of some higher salary was being paid the applicant offered himself for the said post. In case he would have been apprised that there is likely to be a change he would have never accepted the said post. More over in Government service without option a person cannot be shifted to other cadre. It is the applicant who chose that particular cadre and from that cadre he has retired. Merely because his erstwhile colleagues have subsequently because of Pay Commission report have been placed on a higher scale the applicant cannot take benefit of the same. Double benefit cannot go to the applicant. It is true that of course at that time the applicant was not aware the result of his going to that side and later-on when he found that the others have been benefitted naturally he raised his voice against the same but now after his retirement also nothing can be done and the applicant cannot claim the higher pay on the ground that his erstwhile colleagues in the cadre to which he originally belong from which no option was taken are getting higher pay. The learned counsel for the applicant again contended that deprivation of the higher pay scale means deprivation in the pensionary benefits which the applicant would be entitled to. This is a matter which the applicant can raise before the Government and it is for the Government to consider whether any more pensionary benefits can be given to the applicant or not. With the above observations the application is dismissed with no order as to costs.

*transcript*  
( A.B. Gorthi )  
Member(A)

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( U.C. Srivastava )  
Vice-Chairman