

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No. 1229/92  
T.A. No. --

198

17-1-1994  
DATE OF DECISION \_\_\_\_\_

Raghuveer Vinayak Joshi

Petitioner

Mr. A. I. Bhatkar

Advocate for the Petitioner(s)

Versus

U.O.I. &amp; Ors.

Respondent

Mr. S. S. Karkera for Mr. P. M. Pradhan

Advocate for the Respondent(s)

Rc/3  
30  
-31/1

## CORAM

The Hon'ble Mr. Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Mr.

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 in needs to be circulated to other Benches of the Tribunal ?

No

*Lakshmi Swaminathan*  
(Smt. Lakshmi Swaminathan)  
M(J)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A.1229/92

Raghuveer Vinayak Joshi,  
 Saraswati Bungalow,  
 Shahunagar, Jaysingpur 416 101. .. Applicant

-versus-

1. The Secretary,  
 Govt. of India,  
 Telecommunications Department,  
 Parliament Street,  
 New Delhi - 110 001.
2. The Chief General Manager,  
 Telecommunications,  
 Maharashtra Circle,  
 G.P.O. Building  
 Bombay - 400 001.
3. The Assistant General  
 Manager(Staff)  
 Maharashtra Circle,  
 G.P.O. Building,  
 Bombay - 400 001.
4. The Assistant Director(Staff)  
 Maharashtra Circle,  
 G.P.O. Building,  
 Bombay - 400 001.
5. The Telecom District Engineer,  
 Kalyankar Complex,  
 Near S.T. Bus Stand,  
 Sangli - 416 416.
6. Shri V.N.Pai  
 O/O Telecom District Manager,  
 Sushila Building  
 18th June Road, Panaji. .. Respondents

Coram: Hon'ble Smt. Lakshmi Swaminathan,  
 Member(J)

Appearances:

1. Mr.A.I.Bhatkar  
 Advocate for the  
 Applicant.
2. Mr.S.S.Karkera  
 for Mr.P.M.Pradhan  
 Counsel for the  
 Respondents.

ORAL JUDGMENT: Date: 17-1-1994  
 (Per Lakshmi Swaminathan, Member(J))

This application is filed by Shri R.V.  
 Joshi, Senior Section Supervisor, Sangli Telecom  
 District, u/s. 19 of the Administrative Tribunals

Act against the respondents, seeking a direction to the respondents to step up his pay as in the grade of Lower Selection Grade (LSG) with effect from 17-10-81.

2. The applicant joined the respondents as Time Scale Clerk on 16-1-63 at Bombay. On 13-6-76 he passed the prescribed LSG examination and was placed in Sr. No. 434 in the circle gradation list as a Time Scale Clerk. In the same circle gradation list, respondent No. 6, Shri V.N. Pai was placed in Sr. No. 455 as Time Scale Clerk. The applicant was promoted to LSG cadre on circle basis with effect from 19-10-81 as per office order dt. 17-10-81 and his pay was fixed at Rs. 440/- Respondent No. 6 was also promoted to the LSG cadre on circle basis with effect from the same date by the same order and his pay was fixed at Rs. 640/- The grievance of the applicant is that since Shri Pai, respondent No. 6, was junior in the circle gradation list, his pay should be stepped up to that of the junior in that grade.

3. The learned counsel for the respondents has stated that the applicant and respondent No. 6 were working in separate divisions viz. Sangli Division and Goa Division respectively during the relevant period. The respondent No. 6 was posted to officiate in the lower selection grade at Goa on purely local basis since October, 1971 and hence his pay was fixed at Rs. 640/- under FR 22-C on his regular promotion in 1981. It is an admitted fact that the applicant who was senior to respondent No. 6 was not given any offer to work in the higher post in 1971. The learned counsel for the applicant also stated that at the time when respondent No. 6

was posted as LSG at Goa in 1971 he was not even qualified to hold that post. It appears that no DPC was also held from October, 1971 to 17-10-81 when these persons were regularly promoted. The learned counsel for the respondents has also stated that the case is hopelessly barred by limitation u/s.21 of the Administrative Tribunals Act.

4. From the above facts it is clear that the pay of the junior, Shri Pai, has been fixed on promotion at higher stage than his senior, namely, the applicant on account of <sup>the</sup> junior having earned increments by virtue of the earlier adhoc promotions. Learned counsel for the applicant has relied upon the judgment of this Tribunal in Smt. N. Lalitha and others vs. U.O.I. (1992) 19 ATC 569 and T. Atchutha Ramaiah vs. Regional Director Employees State Insurance Corporation, Hyderabad (1992) 21 ATC 78, both on the substantive question of stepping up of pay in the circumstances, as well as for condonation of delay in filing the application. <sup>Regional Director</sup> In Atchutaramaiah vs. E.S.I.C. Hyderabad, this Tribunal, on the question of limitation has held as follows:

"We have no hesitation in ordering stepping up of pay notionally from 1-1-1986, since this grievance is of a continuous nature. The applicant has also performed the duties in the particular scale. He is entitled to arrears also. But with effect from what date? We find that the applicant had made a representation on 30-6-1988 only and this had been rejected by the respondent in August 1988 (A-6). Instead of approaching this Tribunal well in time thereafter, he has approached us only on 1-1-1991. Hence,

he is entitled to arrears only with effect from one year prior to the filing of this application keeping in view of Section 21 of the Administrative Tribunals Act.

5. In this case the period during which the applicant worked in the grade of LSG was from 17.10.81 to 26.10.90 when he was promoted as Senior Section Supervisor by the respondents. His representation made to the respondents, for stepping up of his pay was made on 10.10.85 to which there appears to be no reply. Later, to his representation dt.30.8.88 the respondents vide their letter dt. 22.9.88 rejected his claim for stepping up of pay and intimated that the official cannot compare his pay with that of Shri Pai. No doubt, the cause of action had arisen at that stage, but the applicant actually filed this application before this Tribunal on 30.11.92 only. However, having regard to the judgement of this Tribunal referred to above, since the applicant's grievance is of a continuous nature I allow this application and direct the respondents to refix his pay at par with that of his Junior, respondent 6, from 19.10.1981 in the LSG cadre, but with the following conditions:

Since the applicant has not approached this Tribunal in time even after the rejection of his representation, he is entitled to arrears only w.e.f. one year prior to the filing of this application in accordance with the provisions of Section 21 of the Administrative Tribunals Act.

(12)

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6. The respondents are directed to carry out the above directions within a period of three months from the date of receipt of a copy of this order.
7. There shall be no order as to costs.

M

*Lakshmi Swaminathan*  
(Smt. Lakshmi Swaminathan)  
Member (J)

(TH)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
BOMBAY BENCH, BOMBAY.

Contempt Petition No. 55/95,  
in  
Original Application No.1229/92.

R.V.Joshi. ... Applicant.

V/s.

Union of India & Ors. ... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande,  
Vice-Chairman.  
Hon'ble Shri P.P.Srivastava, Member(A).

Appearances:-

Applicant by Shri B.L.Nag.  
Respondents by Shri S.S.Karkera.

Tribunal's Order :

(Per Shri M.S.Deshpande, Vice-Chairman) Dt. 7.8.1995. -

The only question which arises for consideration in this Contempt Petition is whether the applicant should be paid interest because of the delayed payment while complying with the Tribunal's Order. By the Tribunal's Order dt. 17.1.1994 the payment was to be made within three months from the date of the receipt of the copy of the order. The copy of the order was served on the Respondents on 8.2.1994 and pursuant to the order the payment should have been made by 8.5.1994 but the payments of an amount of Rs.45,699/- which is admittedly the amount payable only on 1.5.1995. Shri B.L.Nag states that because of the delay of nearly a year the applicant was deprived of his stepped up pay, while Shri Karkera for the Respondents states that the Respondents had to take up the matter with the Director General, Department of Telecom, New Delhi and there were numerous cases of stepping up which had to be resolved by reference to different divisions. In his submission considering the exercise that had to be performed the delay is not such as would justify

payment of interest.

2. We are not impressed by the argument on behalf of the Respondents. Once the time was stipulated for complying with the order, the order should have been strictly carried out. We therefore, award interest at 10% p.a. for the delayed payment of Rs.45,699/- from 8.5.1994 to 1.5.1995. This amount of interest shall be paid within one month from the date of communication of this order. With this direction, the C.P. is disposed of.

  
(P.P. SRIVASTAVA)  
MEMBER(A)

  
(M.S. DESHPANDE)  
VICE-CHAIRMAN

B.