

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560 038.

Dated: 6 OCT 1994

APPLICATION NO(s). 851 of 1993.

Applicant(s)

Sri.P.Mahabala Naik,
T.

Respondent(s)

Secretary,Dept.t of Telecommunications,
New Delhi and Others.

1. Sri.S.V.Narasimhan, Advocate,
108/1, Balepet, Bangalore-560 053.
2. Sri.M.Vasudeva Rao, Additional Central
Government Standing Counsel, High Court Bldg,
Bangalore-560001.

SUBJECT:- Forwarding of copies of the Order passed by
the Central Administrative Tribunal, Bangalore Bench
Bangalore.

Please find enclosed herewith a copy of the ORDER/
STAY/INTERIM ORDER passed by this Tribunal in the above said
application(s) on 27th September, 1994.

Issued on
6/10/94 RS

OK *[Signature]*
DEPUTY REGISTRAR
JUDICIAL BRANCHES

**CENTRAL ADMINISTRATIVE TRIBUNAL,
BANGALORE BENCH.**

ORIGINAL APPLICATION NO. 851/ 1993

TUESDAY, THE 27TH DAY OF SEPTEMBER, 1994

SHRI V. RAMAKRISHNAN ... MEMBER (A)

... MEMBER (A)

SHRI A.N. VUJJANARADHYA ... MEMBER (J)

... MEMBER (3)

Between

Shri P. Mahabala Naik,
S/o Shri P. Govinda Naik,
Aged 46 years,
Telephone Supervisor,
Telephone Exchange,
Bantwal, D.K. District.

... **Applicant**

(By Advocate Shri S.V. Narasimhan)

And

1. Union of India by its Secretary to Government, Department of Telecommunication, New Delhi.
2. The Chief General Manager, Telecommunications, Karnataka Circle, Bangalore - 9.
3. The General Manager, Telecommunications, Old Kant. Road, Mangalore - 575 001.
4. Smt. Suguna P. Naik, Telephone Supervisor, Telephone Exchange, Udupi.

Respondents

(By Advocate Shri M. Vasudeva Rao, Addl.
Central Govt. Standing Counsel)

ORDER

Shri V. Ramakrishnan, Member (A)

The applicant, a member of Scheduled Tribe, who is functioning as Telephone Supervisor in Bantwal, Dakshina Karnataka District has moved the Tribunal with a prayer that the Department



of Telecommunications should be directed to grant him second time bound promotion at least from the date of promotion of one Smt. Suguna P. Naik, 4th Respondent, whom the applicant claims is his junior.

2. The applicant joined as Telephone Operator on 9.10.72 at Raichur Telephone Exchange. At his request he was transferred to Belgaum in August 1977 and at his further request he was transferred to Mangalore Division in December, 1977. He is continuing in Mangalore Division since then. He was given his first time bound promotion on completion of 16 years of service with effect from 9.10.88. The second time bound promotion is normally due on completion of 26 years of service. There are instructions that if there is a shortfall of such promotees in respect of persons belonging to SC/ ST, the qualifying period of service for second time bound promotion may be brought down from 26 to 17 years. Accordingly, a number of persons belonging to Scheduled Tribes were given the second time bound promotion from 1.1.93. The applicant submitted representations that he also should be given such a promotion as a number of his juniors belonging to ST category were given such promotion. (Annexures A-1 & A-2). He was, however, informed by the department on 6.1.93 as at Annexure A-3 that Smt. Suguna P. Naik who was given second time bound promotion with effect from 1.1.93 was senior to him as per the Gradation List and by virtue of her seniority she came to be promoted against the shortfall of ST category. As the applicant is junior to Smt. Suguna P. Naik, in the gradation list, he is not entitled to get the second time bound promotion. Aggrieved by this order, the applicant has moved the Tribunal.

3. We have heard Shri S.V. Narasimhan for the applicant and Shri M.V. Rao for the respondents.

4. Shri Narasimhan argues that Smt. Suguna P. Naik was initially appointed in Bangalore Division in July, 1973 and was transferred to Mangalore Division, at her request in the month of September, 1973. Again she was transferred to Karwar Division in July, 1981 which was also at her request. Due to re-organisation of the department, she was re-transferred from Karwar to Mangalore in June, 1985 which was in the public interest. Shri Narasimhan contends that the applicant came to Mangalore on transfer at his request in December, 1977 whereas Smt. Suguna P. Naik was transferred to Karwar Division in July, 1981. Hence, Smt. Suguna P. Naik should be junior to the applicant as Rule 38 (which regulates seniority of persons who are transferred at their request) should operate uniformly for both the applicant and to Smt. Suguna P. Naik. Shri Rao replies that there are separate gradation lists for temporary and permanent staff. Smt. Suguna P. Naik was confirmed with effect from 1.3.77 which was earlier to the date of confirmation of the applicant which was 1.3.80 and as Smt. Suguna P. Naik's lien was not terminated in Mangalore when she came back to Mangalore, she had ranked senior to the applicant. Shri Rao argues that in any case, as per the gradation list as on 1.7.88 which has been received by the applicant in Suguna August, 1988, Smt. P. Naik's name has shown at Sl. No. 101 whereas the applicant is at Sl. No. 191. Shri Rao hands over a copy of the gradation list both to us and to the counsel for the applicant and draws our attention to the fact that there are a number of persons belonging to ST who rank between Smt. Suguna P. Naik & the applicant. Shri Rao asserts that the applicant had not challenged the gradation list in time. As per the gradation list, the applicant is clearly junior and the question of his second time bound promotion will be considered as per his turn keeping in view the shortfall for ST candidates.

5. The prayer of the applicant is that he should be given the second time bound promotion because he claims that persons junior to him such as Smt. Suguna P. Naik have been given such promotion. The position as per gradation list which is currently in force is that the applicant is junior as he is at Sl. No. 191 in Divisional Gradation List as on 1.7.88 whereas Smt. Suguna P. Naik is at Sl. No. 101. The applicant's contention that he is senior is not borne out by the gradation list. Shri Narasimhan forcefully contends that as per the relevant rules and instructions, the applicant should be treated as senior to Smt. Suguna P. Naik. Whatever may be the merit of his contention, the issue of the correctness of the gradation list is not before us and the gradation list of 1.7.88 which was admittedly received by the applicant in 1988 itself, has not been challenged. According to the existing gradation list, the applicant is junior and his turn has not yet come for getting second time bound promotion in terms of such gradation list.

6. In view of the above position, we find no merit in this application and accordingly we dismiss the same with no order as to costs.

Sd/-

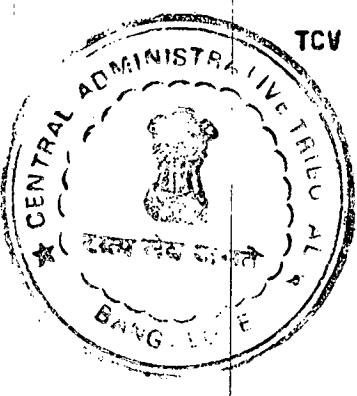
(A.N. Vujjanaradhya)
Member (J)

Sd/-

(V. Ramakrishnan)
Member (A)

TRUE COPY

[Signature]
Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore



Sri. P. Mahabala Naik, M/s. Secy D/o. Telecommunications
New Delhi & O/S
RA 23/95 in OA 851/93

| Date | Office Notes | Orders of Tribunal |
|------|--------------|---|
| | | <p><u>PKS VC/VR MA</u> 25th August 1995</p> <p><u>ORDER</u></p> <p>Amongst other things it is submitted that the issue raised herein is the subject matter of a Special Leave Petition before the Supreme Court. If that is so all that we should do is to dismiss this R.A. subject to the outcome of the Supreme Court in the said SLP. If that SLP is allowed and it is found to cover the case of the applicant he may take up the matter for ^{again} agitation. At the moment we do not see any reason to consider the same ^{case} now ^{then}</p> <p><i>Leave only</i></p> |

Sd/-
MEMBER [A]

Sd/-
VICE-CHAIRMAN

TRUE COPY

11/9/95
Central Administrative Tribunal
Bangalore Bench
Bangalore