

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 1333/93, 457/94, 512/94, 1358/94 & 112/96.

Date of Decision: 11.11.1997.

V.G.Kelkar & Ors.

Applicant.

Shri B.Dattamoorthy.

Advocate for
Applicant.

Versus

Union of India & Ors.

Respondent(s)

Shri S.S.Karkera.


Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G.Vaidyanatha, Vice-Chairman,

Hon'ble Shri. P.P.Srivastava, Member(A).

- (1) To be referred to the Reporter or not? *yes*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *no*


(R.G.Vaidyanatha)
Vice-Chairman.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI,

ORIGINAL APPLICATION NOS. 1333/1993, 457/94,

512/94, 1358/94 & 112/96.

Tuesday, this the 11th day of November, 1997.

Coram: Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,
Hon'ble Shri P.P.Srivastava, Member(A).

1. Original Application No.1333/93.

1. V.G.Kelkar,
Plot No.484 Sector No.27,
Pradhikaran,
Pune - 411 044.
2. S.A.Chitte,
Plot No.518,
Sector No.27,
Pradhikaran,
Pune - 411 044.
3. S.G.Kulkarni,
House No.456, S.No.51/1
Plot No.50,
Near Gharkul Housing Society,
Vadgaon Sheri,
Pune - 411 014.
4. M.G.Buddhisagar,
13, Ganeshmagar,
Vadgaon Maval,
Dist. Pune - 412 016.

... Applicants in
O.A. 1333/93.

2. Original Application No.457/94.

M.D.Garde,
Mangal-Dip Apartment,
Shivaji Peth,
Kolhapur.

... Applicant in
O.A. 457/94.

3. Original Application No.512/94.

1. S.V.Prabhu,
2/6, Annapurna Society,
Dindayal Marg,
Dombivali (West),
Dist. Thane.
2. M.P.Kulkarni,
Govt. Quarters,
CTO Compound,
Akola.

... Applicants in
O.A. 512/94.

4. Original Application No.1358/94.

1. R.V.Kanade,
Central Telegraph Office,
Behind GPO,
Pune - 411 001.

2. N.B.Dongre,
Central Telegraph Office,
Nasik - 422 001.

... Applicants in
O.A. 1358/94.

5. Original Application No.112/96.

D.B.Surve,
11/129, P & T Colony,
Gultekadi,
Pune - 411 037.

... Applicant in
O.A. 112/96.

(Applicants by Advocate Shri B.Dattamoorthy).

V/s.

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

2. The Chief General Manager,
Maharashtra Telecom Circle,
GPO Building,
Bombay - 400 001.

... Respondents in
O.A.1333/93, 457/94,
512/94, 1358/94 &
112/96.

3. The General Manager,
Pune Telecom Dist.
Telephone Bhavan,
Bajirao Road,
Pune - 411 002.

... Respondent in
O.A. 112/96.

(By Advocate Shri S.S.Karkera).

O R D E R

[Per Shri Justice R.G.Vaidyanatha,Vice-Chairman]

These five applications filed under section 19 of
the Administrative Tribunals Act, the respondents have
filed their reply. Since the point covered in all these

cases are common and are covered by a recent Judgment of the Supreme Court, we have taken up all the five applications for final hearing by consent of both the advocates. Heard both the sides.

2. In all these cases the applicants are claiming the relief of stepping up of pay on the ground that their juniors are getting more pay.

For instance, in O.A. No.1333/93 four applicants have filed the application claiming stepping up of pay to be on par with the pay of Shri Baleshwar Singh who is junior to them. Similar allegations are made in all the other applications claiming higher pay or stepping up of pay on the ground that juniors are getting more pay.

3. In all the cases, the respondents common defence is that the juniors are getting more pay because of ad hoc or officiating promotion on local basis and therefore that will not give any right to the applicants to claim higher pay or stepping up of pay.

4. Thought there were some difference of opinion on this question ^{namely when} whether ~~if~~ the junior is getting higher pay due to ad hoc/officiating promotion ^{with} a senior is entitled to get similar benefits, now the point is no longer res integra and is covered by a direct authority of the Apex Court in the case of Union of India V/s.

R.Swaminathan etc. etc. [1997(2) SC SLJ 383], where an identical question arose for consideration before the Supreme Court. The Supreme Court pointed out that the

juniors were drawing higher pay because of ad hoc promotion. It was, therefore, pointed out that ~~in~~ such circumstances there is no question of any anomaly or application of F.R. 22(1)(a)(1). The Supreme Court concluded ^{with} that the following remarks at para 16 of the reported Judgment which reads as follows :

"The employees in question are, therefore, not entitled to have their pay stepping up under the said Government Order because the difference in the pay drawn by them and the higher pay drawn by their juniors is not as a result of any anomaly; nor is it a result of the application of Fundamental Rule 22(1)(a)(1)."

It is therefore seen that in view of the law declared by the Supreme Court the applicants cannot claim higher pay or stepping up of pay on the same ground that their juniors who were on ad hoc promotion are getting higher pay. No other point is involved in all these 5 cases. Therefore, we hold that the applicants in all these five cases are not entitled to any relief in view of the law declared by the Apex Court.

5. In the result, all the five applications are hereby dismissed. No costs.


(P.P. SRIVASTAVA)
MEMBER (A)


(R.G. VAIDYANATHA)
VICE-CHAIRMAN

B.