

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 224/93

XXXXXXRXXXXXKXXXXXNXX:

DATE OF DECISION 13-4-94

Shri S.Santhanam Petitioner

Shri G.R.Menghani Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

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

CORAM:

The Hon'ble Shri N.K.Verma, Member (A)

The Hon'ble Shri

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? Yes
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 ? No


(N.K.Verma)
Member (A)

NS/

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

CA.NO. 224/93

Shri S.Santhanam

... Applicant

v/s.

Union of India & Ors.

... Respondents

CORAM: Hon'ble Member (A) Shri N.K.Verma

Appearance

Shri G.R.Menghani
Advocate
for the Applicant

Shri V.S.Masurkar
Advocate
for the Respondents

JUDGEMENT

Dated: 13-4-94

(PER: N.K.Verma, Member (A))

This is an application from S.Santhanam, an Assistant Engineer in Group 'B' of Mahanagar Telephone Nigam Ltd. for stepping up his pay to the level of a pay drawn by his junior M.T.Ganjewar working in the same organisation. The applicant is undisputedly senior to Shri Ganjewar as is borne out by the seniority list in which the applicant is shown at Sr.No.10388 while Shri Ganjewar was at Sr.No.10975. It has also been said that Shri Ganjewar was not only junior to the applicant in TS Group but also in the lower grade of JT0s. The applicant has also drawn notice to the fact that apart from his pay lower to Shri Ganjewar, it is also lower than the pay drawn by S/Sh. A.G.Pai and W.A.Jaykumar who also are juniors to him in the gradation list.

N.K.Verma

.. 2/-

2. Shri Menghani appearing for the applicant stated that the applicant was appointed as a Telephone Inspector in Tamil Nadu Circle in June, 1964 and was promoted as Engineering Supervisor Telephones now called as Junior Telecom Officer, On 19.6.1973. He was given ante-date of seniority w.e.f. 1970 and his pay was fixed at Rs.450/-p.m. He passed a qualifying examination in TES Group 'B' in 1977 and was promoted to that grade as Assistant Engineer on 25.11.1989. His pay on 1.6.1992 was Rs.2525/- On the other hand, Shri Ganjewar was appointed as ESP (JTO) in 1975 in the MTNL, Bombay and he was given the recruitment year as 1971. His pay in January 1976 was fixed at Rs.440/- and he passed his qualifying examination in TES Group 'B' in 1978. He was promoted to the TES Group 'B' on 11.11.1990 but his pay on 1.7.1992 was Rs.2750/-. This disparity arose because of the fact that while the applicant got adhoc officiation for a period not more than 180 days in Tamil Nadu Circle, Shri Ganjewar went on having continuous officiation in the TES grade B in MTNL Bombay for long period with a result that he was able to earn increment in the TES Group 'B' and hence his pay was fixed higher than that of Shri Santhanam. This anomaly, in the pay scale in relation to employees of the same cadre, same unit and having the same pay scale, requires to be removed in terms of Ministry of Finance M.O. dated 20.6.1985. In support of the submissions he cited the cases of N.Lalitha (Smt.) & Ors. Vs. Union of India & Ors. and also cited judgement by the Single Member Bench of this Tribunal decided on 17.1.1994 in OA.NO. 1229/92.

3. Shri Masurkar for the respondents vehemently opposed this stepping up on the ground that the circumstances in two Circles, like Tamil Nadu and Maharashtra were not identical.

N.Lalitha

MTNL in Bombay is catering ^{to a} ~~to~~ very vast ^{Circle} ~~line~~ of telephone users where service requirement cannot ^{book} ~~cause~~ any delay in filling up of Assistant Engineers who are the field officers in the telephone department. The telephone requirements of Madras or Tamil Nadu Circles cannot be compared to those of the Maharashtra Circle where the exigency of service required continued officiation of Shri Ganjewar on adhoc basis, uninterruptedly which entitled him to earn increment in the ^{Grade} ~~of~~ TES Group 'B'. He also dwelt on the fact that in the level of the Junior Engineer/JTO the two officials, the applicant and Shri Ganjewar were working in two different units/Circles where the promotional avenues were determined according to the vacancies arising in that Circle. If the applicant had to come on voluntary transfer to MTNL, he would have ranked junior to Shri Ganjewar in the seniority list of the JTO and still could not get the same pay parity with him. In support of his argument he also cited the judgement of the Ernakulam Bench of the Tribunal in OA.NO. 1156/93 decided on 29.10.1993 which says that the pay of a senior will be stepped up to a level of his junior subject to the condition that senior and the junior are in the same scale, same cadre and same unit. According to Shri Masurkar, the applicant and Shri Ganjewar were not in the same unit or same Circle and hence the question of stepping up does not arise.

4. I have given careful consideration to the arguments of both the parties. It is ^{an} ~~undeniable~~ fact that the applicant is senior to the persons with whom he is claiming parity in pay in the TES Group 'B'. TES Group 'B' is an All India cadre having the same scales of pay with liability of transfer anywhere in the country. It is fortuitous circumstances like vacancies arising on short term basis which are required to be filled up

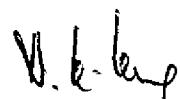
N.W.

by adhoc promotions for a period not longer than 180 days at a time. If there are any long term vacancies, the same are required to be notified to the higher Headquarters in the Telecom Branch of the Government of India, i.e. Telephone Commission which has to take necessary steps to fill up the vacancy on All India basis. However, these directives of the Government of India are normally observed in abeyance. The short term and long term vacancies are hardly ever calculated properly and in advance and in certain Circles and units, officials are allowed to continue uninterruptedly on adhoc basis without being considered by the Departmental Promotion Committee and without having a regular right to hold such appointments. So long as these are not objected to by the seniors, nobody is bothered about, but once it has come to the notice of the Department of Telecommunication that a junior was allowed to officiate continuously for a number of years enabling him to draw increments on a higher pay scale to the disadvantage of his seniors who were duly qualified and eligible for such appointment, the matter becomes unsupportable. The Telecom Department itself should have taken steps to ensure that the senior working in the same unit is allowed to have the benefit of stepping up of his pay to the level of his junior. The applicant and Shri Ganjewar are now working in the same unit, i.e. MTNL ^{Bombay} and that is why the gross disparity becomes more unsustainable. This Tribunal is not able to deal with the circumstances why a junior was allowed to continue uninterruptedly for more than 180 days at a time giving him undue advantage over his senior. Since the matter is brought for redressal before the Tribunal, I would allow the applicant to step up his pay with reference to ~~this~~ date when his junior was allowed to get a pay higher than ~~to~~ him, ^{as} ~~back with~~ he shall also be allowed interest at the rate of 12% p.a. for the denial of his bonafide stepping up when it became due to him.

N.L.W.

5. In the passing, I cannot also but express dissatisfaction that the respondents 1 & 2 in this case, the Union of India through the Secretary in the Department of Telecommunication & the Chairman, Telecom Commission have not filed their written statements properly & separately. The Chief General Manager ~~is~~ the 3rd respondent has made written statements on behalf of all the respondents. The responsibility for making All India recruitment and appointment in the TES Group 'B' rests squarely with the Respondents No. 1 & 2. The anomaly, if any, have to be removed by Respondents No. 1 & 2. In this case, it appears that the anomalies were created due to indifferent or perhaps over jealous interest on the part of Respondent No.3 to permit continuous officiation on adhoc promotion by Junior official available in the Maharashtra Circle. It is not known whether the Respondents No. 1 & 2 were ever consulted in the matter before giving a written reply as has been done in this case at a level of Assistant General Manager of the MTNL who ~~has~~ started with the statement that he has been authorised to file this reply on behalf of the respondents. No such authority has been filed with the written statement. In any case, the Respondents No. 1 & 2 are squarely responsible to ensure that adhoc basis promotion's in the several Circles/Units are not allowed to continue by flouting the directions of the Department of Personnel. Interest of officials working in circles where Government instructions are meticulously observed need to be protected against those where such instructions are flouted.

6. The application is allowed in the ~~above~~ terms of ^{Para 4 above} These directions will be complied with within 3 months of the receipt of ~~Respondents~~ ^{these orders} ~~only~~. There will be no order as to costs.



(N.K.VERMA)
MEMBER (A)