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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 335/93

~~XXXXXXXXXXXXXXXXXXXX~~

DATE OF DECISION 21.10.1993

Smt. Vijaya Rajgopal ----- Petitioner

Shri E.R.Naik ----- Advocate for the Petitioners

Versus

Chief G.M. Mah. Telecom Circle, Bombay & District ----- Respondent

Sh.M.S.Karnik for Sh.P.M.Pradhan ----- Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice M.S.Deshpande, Vice Chairman

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 ?
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 ?


(M.S.DESHPANDE)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NO. 335/93

Smt. Vijaya Rajgopal

... Applicant

V/S.

Chief General Manager,
Maharashtra Telecom Circle,
Bombay and Others.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande

Appearance

Shri E.R.Naik
Advocate
for the Applicant

Shri M.S.Karnik
for Shri P.M.Pradhan
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 21.10.1993

(PER: M.S.Deshpande, Vice Chairman)

The applicant prays for fixation of her pay at the stage in the scale in which she was working prior to her transfer i.e. basic Rs.1760/- in the scale subsequent to her transfer after joining with Respondent No. 1 with appropriate benefits. The applicant was appointed in December, 1982 as a Lower Division Clerk with the Ministry of Defence at New Delhi. On 9.4.1985 she was promoted as Steno Grade III and on 9.12.1987 she was promoted as Steno Grade II. She got married on 10.2.1989. As her husband was working at Bombay, she made an application for transfer to Bombay on 28.3.1989. Respondent No. 1 asked her to tender a technical resignation which she did on 30.5.1990. She gave an undertaking on 8.5.1990 in the prescribed format that she would sever all connection with the parent Department, would not ask repatriation to her parent Department, She shall be deemed to be a new recruit in the unit to which she was ordered and would be accommodated against outside quota of vacancies, and her past service would not

count for any purpose other than pensionary benefits and that her movement to the new unit would be at her own request and cost and she would resign from her present post of Stenographer in the parent unit.

After the applicant joined the new department in a lower scale, that of Steno Gr. III as ^{the} post of Steno Gr. II was not available in the Department to which she was transferred, her pay came to be fixed at the lowest stage in the post of Steno Gr. III. She made two representations against the fixation of pay but since the relief she sought was not granted, she has filed this application claiming that her pay should be fixed in the scale at the stage which she was drawing in Steno Gr. II at New Delhi.

2. The claim ^{is} being opposed by the respondents because there are no rules permitting the applicant to claim the relief and since she had given her resignation and severed ^{ed} all her connection with the parent Department, she would not be entitled to ask for protection of her pay.


3. F.R. 22 (a) (2) ^{provides that} When the appointment to the new post does not involve ^{employee} assumption of duties and responsibilities of greater importance, the ^{shall} draw as initial pay, the stage of the time-scale which is equal to his pay in respect of the old post held by him on regular basis, or, if there is no such stage, the stage next above his pay in respect of the old post held by him on regular basis. Under (3) When appointment to the new post is made on his own request under sub-rule (a) of Rule 15 of the said rules, and the maximum pay in the time-scale of that post is lower than his pay in respect of the old post held regularly, he shall draw that maximum as his initial pay and (b) if the

conditions prescribed in clause (a) are not fulfilled, he shall draw as initial pay on the minimum of the time scale. The instructions of the Govt. of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) No. 13/24/92-Estt. (Pay-I Dt. 22.1.93) show that in cases where Government servants applied for posts in the same or the other Departments through proper channel and on selection, they are required to resign the previous posts for administrative reasons, the benefit of past service, if otherwise admissible under rules, be given for purposes of fixation of pay in the new posts treating the resignation as a technical formality. The instructions referred to the query whether this benefit is admissible to Government servants who applied for posts in same or other Departments before joining Government service and on that account the application was not routed through proper channel and after examining the matter, similar instructions were issued. It is apparent from the circumstances in which the applicant came to the post in Bombay that the requirements were substantially complied with by the applicant. It is, therefore, clear that the policy of the Government is to give the benefit of the pay which the employee was drawing in the parent department when he is transferred to other Department.

4. In the circumstances, it is difficult to hold that by virtue of the resignation which was tendered as a technical formality, the applicant who got absorbed in a lower grade would lose the benefit of the stage she had reached in the pay-scale of the parent department. The applicant would, therefore, be entitled to the benefit of the stage to which she was entitled in the parent department before her transfer to the other department at Bombay. I, therefore, direct the

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respondents to fix the pay of the applicant accordingly from the date she joined at Bombay despite the technical resignation which she had tendered. This be done within three months from the date of receipt of a copy of this order.


(M.S. DESHPANDE)
VICE CHAIRMAN

mrj.