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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH 'GULESTAN' BUILDING NO:6
PRESCOT ROAD, MUMBAI:1

Original Application No. 1009/94, 1088/94, 1013/94 and
1347/94.

Wednesday the 7th day of July 1999.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman
Hon'ble Shri D.S. Baweja, member (A).

M.A.V. Gopalachary

... Applicant in
1009/94.

K.S. Sundaram
A-10, Rajalakshmi
Co-operative Housing
Society Ltd., Behind
Sri Balaji Mandir,
Goraswadi, Dombivli.

K.E. Krishnaswamy
A/10, Balaji Darshan
Patharli Road,
Dombivli.

... Applicants in
OA 1088/94.

R.G. Kshirsagar

S.H. Gujar

A.S. Nivergikar

N. Ramasamy

P. Venugopal

K. Kumaraswamy Pillai

S.W. Patil

M.T. Mahalle

S.Srinivasan.

A. Arunachalam

R. Arunachalam

R. Pandian.

... Applicants in
OA 1013/94.

V.Parijatham.

... Applicant in
1347/94.

By Advocate Shri A.I. Bhatkar.

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1. Union of India through
Secretary,
Ministry of Communication
Department of Telecommunication
Sanchar Bhavan, New Delhi.
2. Chief General Manager
Maharashtra Telecom Circle
GPO Building,
Bombay. ... Respondents.

By Advocate Shri S.S.Karkera for Shri P.M.Pradhan.

3. The Chief General Manager
Mahanagar Telephone Nigam Ltd.,
Telephone House, V.S. Marg,
Prabhadevi.
4. Chief General Manager,
Telecom Factor, Sion,
Trombay Road.
V.N. Parav Marg.,
Deonar, Bombay. ... Respondents.

By Advocate Shri V.S.Masurkar.

ORDER (ORAL)

Per Shri Justice R.G.Vaidyanatha, Vice Chairman

All these four O.As are filed by the respective applicants claiming stepping up of pay only on the ground that juniors are getting more pay. The respondents have filed reply opposing the applications. We have heard Shri A.I. Bhatkar counsel for the applicant, Shri S.S. Karkera for Shri P.M. Pradhan counsel for some respondents and Shri V.S.Masurkar counsel for some of the respondents in these O.As.

2. The applicants have taken number of grounds for claiming stepping up of pay on par with juniors. They are also relying on some of the decisions of the Division Bench^{of} of this Tribunal where it has been held that seniors are entitled to stepping up of pay on

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par with juniors when juniors are getting more pay.

3. The point in issue is when juniors are getting more pay on adhoc or officiating promotion whether seniors are entitled to stepping up of pay or not?

Through number of judgements of this Tribunal have held that in such a case the seniors are entitled to stepping up of pay. The question is no longer res-integra in view of the latest decision of the Supreme Court in the case of Union of India and another V/s. R. Swaminathan, 1997(2) SC SLJ 383. That was also an identical case where seniors were claiming stepping up of pay when juniors were getting more pay due to adhoc or officiating promotion. The Supreme Court has held that in such a case, FR 22(1)(a)(1) cannot be applied and in such case seniors will not have the benefit of stepping up of pay. This is what the Supreme Court has observed in para 16 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)."

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In view of the law declared by the Apex Court we hold that the applicants in these cases are not entitled to stepping up of pay.

The learned counsel for the respondents also brought to our notice the decision of a Division Bench of this Tribunal to which one of us was a party (R.G.Vaidyanatha, Vice Chairman) in a common order dated 11.11.1997 in O.A. 1333/93 and connected cases where it has been held, following the decision of the Supreme Court, that seniors are not entitled to stepping up of pay on par with juniors when juniors are getting more pay due to adhoc or officiating promotion.

For the above reasons we hold that the applicants in these O.As are not entitled to the relief.

4. In the result all the four O.As are dismissed. No order as to costs.

In view of the disposal of the O.As M.Ps 330/97 and 135/97 does not survive and accordingly disposed of.

(D.S. Baweja)
Member (A)

(R.G. Vaidyanatha)
Vice Chairman