

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No: 1280/94

Date of Decision: 22.7.1999

Shri P.M.Kulkarni

Applicant.

Mr. Gode

Advocate for  
Applicant.

Versus

Union of India and others.

Respondent(s)

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

Advocate for  
Respondent(s)

CORAM:

Hon'ble Shri. D.S. Bawejah, Member(A)

Hon'ble Shri. S.L. Jain, Member(J)

(1) To be referred to the Reporter or not?

(2) Whether it needs to be circulated to  
other Benches of the Tribunal?

*D.S. Bawejah*  
(D.S. Bawejah)  
Member(A)

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMAY BENCH, MUMBAY

ORIGINAL APPLICATION NO:1280.94

Thursday the 22nd day of July 1999.

CORAM: Hon'ble Shri D.S.Baweja, Member(A)  
Hon'ble Shri S.L.Jain, Member(J)

P.M.Kulkarni  
Residing at  
F-4, Mahim  
Telephone Colony,  
Mogul Lane,  
Bombay.

...Applicant

By Advocate Ms.Gode.

Union of India through  
the Secretary in the  
Department of Telecommunication  
New Delhi.

The Chairman  
Telecom Commission,  
Department of  
Telecommunication, New Delhi.

The Chief General Manager  
Maintenance, Western Region  
Telephone House, 12th floor,  
West Wing, V.S.Marg.,  
Pravadevi,  
Bombay.

...Respondents.

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

ORDER(ORAL)

Per Shri D.S.Baweja, Member(A)

This application has been filed by the applicant seeking stepping up of pay equal to that of his juniors Shri A.G.N.Pai and Shri S.V.Godse on the basis of TES Group 'B' with retrospective effect and payment of arrears on account of difference in pay after fixing of the pay with retrospective effect with interest of 18%.

(✓)

2. The case of the applicant is as follows:

The applicant joined the department of Telecommunication as Engineer Supervisor and was allotted 1972 as the year of recruitment. The applicant was promoted to the post of TES Group 'B' on regular basis from 29.11.1986 through Limited Departmental Competitive Examination. The case of the applicant is that two of his juniors Shri A.G.N.Pai and Shri S.V.Godse are promoted to TES Group 'B' as per order dated 16/19.11.1990 on the basis of qualifying examination but are drawing more pay than the applicant. At present the applicant's pay is Rs.2600/- whereas that of Shri Pai and Shri Godse is Rs. 2900/- and 2975/- respectively. The claim of the applicant is that as per Ministry of Finance Office Memorandum dated 4.6.1966 and application of FR 22-c the applicant is entitled for stepping up of pay to that of his juniors. The applicant made representation for stepping up of his pay. The same was rejected as per order dated 30.9.1993. Being aggrieved by the same, the present OA has been filed on 28.10.1994.

3. The respondents have filed written reply opposing the application. The respondents have submitted that Shri A.G.N.Pai and Shri S.V.Godse are drawing more pay than the applicant in the post of TES Group 'B' on account of increments earned by these two officers on account of adhoc promotion in the post of TES Group 'B' based on the local arrangement in the exigency of service. The respondents contended that the applicant is not entitled the benefit of stepping up of pay on account of junior drawing more pay due to adhoc promotion as local arrangement as FR-22-C is not applicable in such circumstances.

4. The applicant has not filed any rejoinder. We have heard the arguments of Ms.Gode counsel for the applicant and Shri S.S.Karkera for Shri P.M.Pradhan counsel for the respondents.

5. The learned counsel for the respondents during the course of arguments pointed out that the issue in this OA seeking stepping up of pay with reference to the junior who is drawing more pay on account of adhoc promotion as already been settled by the Hon'ble Supreme Court~~s~~ in the case of Union of India and another V/s R.Swaminathan etc.etc. 1997(2)SC SLJ 383 wherein the Supreme Court has held that stepping up of pay is not applicable in case juniors is drawing more pay on account of adhoc promotion. In view of this, the learned counsel for the respondents contended that the present OA deserves to be dismissed. The learned counsel for the respondents also brought out that several OAs involving the same issue of stepping up of pay have been dismissed by this Bench relying upon the judgement of the Hon'ble Supreme Court in the case of Union of India V/s. R.Swaminathan.

6. We have gone through the ~~sases~~ and find that the Hon'ble Supreme Court in para 16 of the judgement has held that if junior is drawing more pay on account of local arrangement, it is neither as a result of any anomaly, nor it is a result of application of FR-22(1)(a)(1){corresponding to FR-22-C}. Therefore the senior is not entitled to stepping up of pay with reference to his juniors. This ~~situation~~ prevails in the present OA as Shri Pai and Shri Godse are drawing more pay than the applicant on account of adhoc promotion in TES Group'B' ~~as~~ local arrangement at circle level. In view of what is held by the Hon'ble Supreme Court, the applicant is not entitled the relief stepping up of pay at par with his juniors.

(V)

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7. In the result the above the OA is dismissed with no order as to costs.

*S.L.Jain*  
(S.L.JAIN)

MEMBER(J)

*D.S.Baweja*  
(D.S.BAWEJA)

MEMBER(A)

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