

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.372/95

Thursday, this the 23rd day of December, 1999.

Coram: Hon'ble Shri Justice Ashok Agarwal, Chairman,
Hon'ble Shri B.N.Bahadur, Member (A).

A.Veeramani,
C/o. Shri A.I.Bhatkar,
Advocate, 4/13,
Mohamed Hussain Chawl,
Opp. Antop Hill Post Office,
Wadala,
Bombay - 400 037.Applicant.
(None present for the applicant)

Vs.

1. Union of India through
Secretary,
Ministry of Communications,
Department of Telecommunications,
Sanchar Bhavan,
New Delhi.
2. Chief General Manager,
Mahanagar Telephone Nigam Ltd.,
Telephone House,
V.S.Marg, Prabhadevi,
Bombay - 400 028.Respondents.
(By Advocate Shri V.S.Masurkar)

: O R D E R (ORAL) :

(Per Shri Justice Ashok Agarwal, Chairman)

The present OA is covered by the decision of the Supreme Court in the case of Union of India and Anr. Vs. R.Swaminathan and Ors. (1997 (2) SC SLJ 383). As in the case before the Supreme Court, the applicant in the instant case seeks stepping up of his pay on the ground that his junior was getting more pay than him. According to the applicant he is at present working as an Accounts Officer in the Telecommunication Department of the

Government of India and is posted with Mahanagar Telephone Nigam Ltd. (MTNL), Bombay. The applicant ~~who~~ was promoted as Accounts Officer w.e.f. 3.5.1991 and his Blue Book Number is 81557 and he has been placed at S1.No.490 in the seniority list. His pay on promotion as Accounts Officer has been fixed at Rs.2,375/- with the next date of increment on 1.2.1992 raising his pay to Rs.2,450/-. Applicant has pointed out an instance of his colleague one Mr.B.M.Raval, whose Blue Book Number is 81564 and who has been placed below the applicant in the seniority list i.e. at S1.No.497. As far as, Mr. Raval is concerned, his pay on promotion to the next promotional post was fixed at Rs.2,600/- with his next date of increment being fixed on 1.7.1991 raising his pay to 2,675/-. According to the applicant, he cannot be paid lesser salary than his junior and hence prays for a direction of stepping up of his pay on par with that of Sh.Raval.

2. It is conceded by the applicant as far as the promotion of Shri Raval is concerned, it was an ad-hoc promotion in his Department in Gujarat. The Supreme Court on facts which are pari materia ^{to present} ~~in the~~ aforesaid case has inter alia observed as under:

"The question is basically of administrative exigency and the difficulty that the administration may face if even short-term vacancies have to be filled on the basis of All India seniority by calling a person who may be stationed in a different Circle in a region remote from the region where the vacancy arises, and that too for a short duration. This is essentially a matter of administrative policy. But the only justification for local promotions is their short duration. If such vacancy is of a long duration there is no administrative/for not following the all India seniority. Most of the grievances of the employees will be met if proper norms are laid down for making local officiating promotions. One thing, however, is clear. Neither the seniority nor the regular promotion of these employees is affected by such officiating local arrangements. The employees who have not officiated in the higher post earlier, however, will not get the benefit of the Proviso to Fundamental Rule 22.

Laxigency

W.A

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)."

The aforesaid decision, therefore, lays down that ad-hoc promotions for short term vacancies which are required to be granted on administrative exigencies are essentially a matter of administrative policy. By such promotions, neither the seniority nor regular promotion of employees like the applicant is affected by such officiating local arrangements. Employees such as the applicant will, therefore, not be entitled to have their pay stepped up under Rule 22(1)(a)(1). The aforesaid decision of the Supreme Court has now been consistently followed in many decisions of this Tribunal, one such is a common order passed on 11.11.1997 in OA No.1333/93 and other connected cases, as also OA No.1009/94 and other connected matters decided on 7.7.1999. In the circumstances, We may at this stage record that Shri A.I.Bhatkar, the learned counsel appearing on behalf of the applicant is absent. However, since we find that the present case is covered by the aforesaid decisions and since Shri Bhatkar has also appeared in the batch of cases which have been disposed of on 7.7.1999, we have proceeded to hear and dispose of the present OA in his absence on merits.

3. In the result, the OA fails and the same is dismissed. However, in the facts and circumstances of the case, there will be no orders as to costs.

B.N.Bahadur
(B.N.BAHADUR) ..

MEMBER(A)

ASHOK AGARWAL
(ASHOK AGARWAL)
CHAIRMAN