

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:4/98

DATE OF DECISION:12.10.2001

Shri R.R. Upadhyay Applicant.

Shri T.D. Ghaisas Advocate for
Applicant.

Verses

Union of India and others Respondents.

Shri K.R. Yelwe for Shri V.S. Masurkar Advocate for
Respondents

CORAM

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

Hon'ble Shri V.K. Majotra, Member(A)

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

(2) Whether it needs to be circulated to *no*
other Benches of the Tribunal?

(3) Library. *yes*

S.L.Jain
(S.L.Jain)
Member(J)

NS

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO: 4/98

FRIDAY the 12th day of OCTOBER 2001

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

Hon'ble Shri V.K. Majotra, Member (A)

R.R. Upadhyay
Residing at
NR Upadhyay Chawl,
Vakola Bridge,
Vivekananda Nagar,
Santacruz (E), Mumbai.

...Applicant.

By Advocate Shri T.D. Ghaisas

V/s

1. Union of India through
The Secretary
Deptt. of Telecommunications
Ex-Officio Chairman,
Telecom Commission,
Sanchar Bhavan, New Delhi.
2. The Chief General Manager
Telecommunications
Mahatrashttra Circle, Fountain
Telecom Bldg. II, 8th Floor,
Mumbai.
3. The Chief General Manager
Maintenance
Western Telecom Region
Telephone House, 12th floor,
Dadar, Mumbai.
4. The General Manager
Telecommunications
Raigad Telecom District
4th Floor, Muhatta Market
Paltan Road, Mumbai.

...Respondents.

By Advocate Shri K.R. Yelwe for Shri V.S. Masurkar.

ORDER(ORAL)

{Per S.L. Jain, Member(J)}

This is an application under Section 19 of the
Administrative Tribunals Act 1985 to quash and set aside the
letter 14.7.1997, to declare the action of the respondents in

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:2:

denying the applicant the OTBP and BCR promotions illegal, unlawful, unconstitutional, null and void without application of mind and without any power and authority, to direct the respondents to promote the applicant under OTBP and BCR on the line of Sub Inspector on completion of 16 years and 26 years of service to the scale of Rs. 1200-30-1400-EB-30-1800 from 29.6.1984 and BCR Rs. 1320-40-1560-EB-40-2040 from 26.9.1994 respectively with retrospective effect.

2. The applicant was appointed as Chowkidar on or about 15.7.1961 in the scale of Rs. 70 - 85 and thereafter he was appointed as Mast Lascar on or about 26.9.1968 in the scale of Rs. 70 - 95 after having adjudged his suitability by conducting test by the then Assistant Engineer Wireless and as Executive Engineer Supervisor Wireless Santacruz, Bombay. The applicant's representation dated 22.7.1994 was decided on 1.9.1994 and further representation dated 30.6.1997 was decided on 14.7.1997.

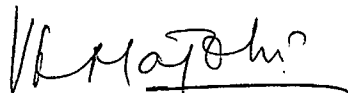
3. On perusal of letter dated 14.2.1997 (page 48 of the paper book) it is made out that there are only two posts of Mast Lascar one at Calcutta and other at Mumbai and there is no promotional avenue for the persons holding the said post. BCE Scheme dated 13.9.1991 para 2 (c) is worth mentioning, which is as follows.

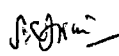
The employees will get promotion in situ to the next higher scale available is in the normal line/hierarchy by promotion. Promotions made on the basis of qualification or subject to possessing or acquiring high qualifications will not be treated as promotions in the normal line/hierarchy for the purpose of these instructions. In cases where no promotional grade is available, promotional scale will be decided by the Ministry of Finance. The promotional grade in case of Staff Car Drivers in the scale of Rs. 950-20-1150-EB-25-1500 will be Rs. 1200-30-1440-EB-30-1800.
(Emphasis supplied by us)

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4. On perusal of the said para we are of the considered opinion that in this case where no promotional grade is available, the same is to be decided by the Ministry of Finance. The post of Mast Laskar has no promotional avenue. BCR scheme itself makes provision for next higher scale hence it cannot be said that the said scheme is not applicable in the case of the applicant. In such situation promotional scale has to be decided by the Ministry of Finance.

5. As such, we allow the OA and direct Ministry of Finance to decide the promotional grade within a period of three months by a speaking order with copy to the applicant. The applicant has retired on 30.6.2000 the promotional scale would be decided by the Ministry of Finance and shall have the effect of his entitlement to arrears for the period in which he was in service and his case for pensionary benefits shall also be considered by the respondents according to the rules. No order as to costs.


(V.K. Majotra)
Member(A)


(S.L. Jain)
Member(J)

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