

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.NO. 603 of 1987

Date of Order: 16/02/90

...

K.V.Bhaskara Rao.

..Applicant

Versus

1. Union of India, rep. by the Secretary,
Department of Telecommunications,
New Delhi.

2. The General Manager,
Telecommunications, AP,
Hyderabad.

3. The Telecom District Engineer,
Srikakulam,

..Respondents

...

FOR APPLICANT: MR.C.SURYANARAYANA, ADVOCATE.

FOR RESPONDENTS: MR.NARAM BHASKAR RAO,
Addl. Standing Counsel for the
Department.

..

c o r a m

HON'BLE SHRI B.N.JAYASIMHA: VICE CHAIRMAN

HON'BLE SHRI D.SURYA RAO: MEMBER (JUDICIAL)

...

(Judgment delivered by Shri B.N.Jayasimha, Vice Chairman)

..

1. The applicant herein is an employee of the Telecom Department. He states that he was initially appointed in the year 1956 as Telephone Operator and the next promotion that he is entitled is the post of Telephone Supervisor (TS). His grievance is that he was over-looked for promotion in the year 1974 when his juniors were promoted, due to ^{a Censure} censure imposed on him on 4-6-1974 and also an adverse ^{entry, the C.R. Year} in 1966-67 communicated on 27-7-74. In normal circumstances, he should have got

W

..2..

got the promotion on 1-6-1974 when 20% of the posts were upgraded. It is contended that he was actually given promotion on 20-9-1976. Between 1-6-1974 and 20-9-1976 he had officiated ~~as TS on several occasions on different duties as TS.~~ Consequent on ^{the} various representations made ^{to} against the Board orders passed, the P&T Department/while setting aside the penalty order had observed ^{to} its order dated 6-2-1985 that the applicant may represent to the appropriate authority in regard to the question relating to seniority and promotion. In pursuance to that, the applicant made his representation to the 2nd respondent and the 2nd respondent in his order dated 1-7-86 gave ~~given~~ him notional promotion with effect from 1-6-74. He was also given seniority in the category of ~~exts~~ ^{of pay} from that date. However, in the said order, it was observed that he is not entitled to get arrears ^{and} that the period of notional promotion would count only for fixation of pay. The applicant states that by a subsequent order dated 17-10-1976, officiating service rendered by ~~the~~ ^{applies} him between 1-6-74 and 19-9-76 was not taken into account. He has, therefore, filed this application for a direction to the respondents to pay him arrears of salary ~~due and~~ admissible to him consequent to fixation of pay as per orders contained in 3rd respondent's memo dated 17-10-1986 declaring (a) that the applicant is entitled to count his service as officiating TS prior to 1-6-74 for the purpose of increments and fixation in accordance with FR 26 and Government of India's orders No.9 below FR 26, dated 30-8-72. (b) that the restriction that the applicant is not entitled to arrears of salary for the period from 1-6-74 to 19-9-76 is illegal and to pay him consequential and other incidental benefits for the said period.

16

2. On behalf of the respondents a counter has been filed contending that the applicant had been passed over by the DPCs which met in 1974, 1975 and 1976 and he was promoted on 20-9-1976. It is therefore stated that he is not eligible for notional promotion and not entitled to get arrears for the period of notional promotion. It is further contended that the fixation of pay of the applicant had been done in accordance with the rules and as per memo no.Q-305/ TS/84, dated 17-10-1986. He is, therefore, not eligible for any arrears of pay.

3. We have heard Shri C.Suryanarayana, learned counsel for the applicant and Shri N.Bhaskar Rao, Addl.CGSC for the Department.

4. The first point for consideration is whether the applicant is entitled for the arrears of pay from 1-6-1974 to 19-9-1976 which has been disallowed by the respondents on the ground that he had been passed over by the DPCs. It is seen that the P & T Board after considering the representation of the applicant had given specific directions while setting-aside the order of punishment and in pursuance to the observations made, therein, the applicant approached the General Manager for giving him the retrospective promotion. While considering the request of the applicant, the General Manager has given notional promotion and also seniority from 1-6-1974. The ground urged that the DPCs had passed him over and therefore he is not entitled to arrears of pay is not valid. Shri Bhaskar Rao, ~~however~~, maintains that as the applicant had not actually worked in the post he

To:

1. The Secretary, (Union of India), Department of Telecommunications, New Delhi-110001.
2. The General Manager, Telecommunications, A.P., Hyderabad-500001
3. The Telecom District Engineer, Srikakulam-532001
4. One copy to Mr.C.Suryanarayana, Advocate, 1-2-593/50, Srinilayam, Sri Sri Marg, Gaganmahal, Hyderabad-500 029.
5. One copy to Mr.N.Bhaskara Rao, Addl.CGSC, CAT, Hyderabad.
6. One spare copy.

...
kj.

DNC
23/1/69

(W)

cannot claim salary for that period. Shri Suryanarayana relies on 1983 (2) LLJ 319 (P & H) (Dharam Singh vs. State of Punjab). Following the decision in the Dharam Singh's case, the respondents are directed to pay the difference of arrears to the applicant for the period between 1-6-1974 and 19-9-1976.

5. Shri Suryanarayana's contention is that the increment due to the applicant in the post of Telephone Supervisor must be fixed taking into consideration the broken period of his officiation as such prior to 1-6-1974 in accordance with FR 26 and the Government of India's instructions therein. We are unable to give any direction in this matter as the applicant has to make ^a specific representation to the Department in this connection giving the details thereof.

6. In the result, the application is allowed to the extent indicated above. No costs.

(Dictated in open court)

B.N.Jayashimha
(B.N.JAYASIMHA)
VICE CHAIRMAN

D.Surya Rao
(D.SURYA RAO)
MEMBER (JUDL.)

DT: 16th February, 1990.

SQH*

.....

*20/2/90
20/2/90*