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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD

DA 789/87

Dt. of Order: 25-1-94.

M.S. Gayatri

...Applicant

Vs.

1. The Secretary, Ministry of Communications
& Director General of Telecommunications,
Department of Telecommunications,
Sanchar Bhavan, New Delhi.
2. The Superintending Engineer,
(Electrical) Telecom Electrical
Circle, Madras-6.
3. The General Manager, Telecommunications,
Hyd.
4. Boota Singh
5. G.R. Pande
6. V.K. Dogra
7. R. Ramesh Babu
8. S.K. Viramani
9. K.K. Jindal

...Respondents

* * *

Counsel for the Applicant : Shri M.S. Nagaraja

Counsel for the respondents : ~~Shri~~ Addl. C.G.S.C.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (A)

...2.

O.A.NO. 789/87

ORDERS

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

This application is filed praying for the following directions:- *Valids*

i) That the impugned seniority list of Assistant Engineer (Electrical) circulated under Department of Telecommunications letter No.55-4/87 CWG, dated 13.11.1987 *shall* be declared as illegal and quashed;

ii) That the posts and Telegraphs Civil Engineering (Electrical) Gazetted Officers Recruitment (Amendment) Rules, 1984 giving retrospective effect may be declared as arbitrary and illegal;

iii) The fresh seniority list of Assistant Engineer (Electrical) may be recast on the basis of length of continuous service in the grade irrespective of whether such service is regular, adhoc, officiating or otherwise with effect from 22.9.1970;

iv) That the applicant *shall* be deemed to have been promoted as Executive Engineer (Electrical) on regular basis from 30.10.1978; and

v) That the applicant *may* be considered for promotion to the post of Superintending Engineer as he has already completed five years eligibility period for promotion.

2. The facts which give rise to this proceeding are briefly as under:-

Till 1963, the civil works of the Telecommunications Department were being attended to by the CPWD. In 1963,

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the works of the Telecommunications department were handed-over to the said department for being executed under their supervision. Then, some of the engineers in CPWD opted for working in the Telecommunications department. Those engineers were ~~the~~ ^{the} nucleus for the engineering wing of the Telecom. As and when there was increase in the work load, engineers in various categories were directly recruited in the Telecom. After some time, the engineers in the lower grades were being promoted. The recruitment rules for engineering wing in the Telecom were formulated in 1975. But there was no rule in those rules in regard to those who ~~are~~ ^{were} directly appointed and promoted prior to the date on which those rules had come into effect. When the omission in regard to the ~~the~~ initial recruitment clause was noticed, 1975 rules were amended in 1984 by incorporating the clause whereby direct recruits who ~~are~~ ^{were} appointed before the 1975 rules had come into effect were deemed to have been appointed from the dates of their respective appointments. But no such provision was made in regard to the promotees who were promoted before the above rules had come into effect.

3. The applicant herein was promoted to the post of Assistant Engineer in the Telecom (Electrical wing) before 1975 rules had come into effect. The various engineers (electrical) who were promoted in the Telecom before 1975 rules had come into effect, approached the Calcutta, Madras, Bangalore, Ernakulam, Bombay and Principal Benches of CAT for the reliefs which are similar to the reliefs claimed in this OA. The Calcutta Bench in TAs 677/86 and 20/87, the Madras Bench in OAs 140 to 142/85 and 149/88, the Bangalore Bench in OAs 1108 to 1110/89 and the Ernakulam Bench in the

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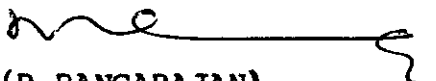
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judgment reported in 1992 (19) ATC 198 held that the seniority of those promotees had to be reckoned from the dates of their respective promotions, but the Bombay Bench in OA 273/87 and the Principal Bench in OA 727/87 and batch held that their seniority had to be fixed in accordance with the O.M.No.9/11/55/RPS, dated 22.12.1959. The said OM contemplates fixation of seniority on the basis of confirmation.

4. It has to be noted that as there ^{was} no recruitment rules prior to 1975, either direct recruitment or promotion was referred to as adhoc.

5. In view of the conflict^{-ing} judgments, we feel that it is just and proper to refer this OA ^{to} for the Full Bench.

6. Hence, place the papers before the Hon'ble Chairman for constituting a Full Bench.


(R.RANGARAJAN)
MEMBER (ADMN.)


(V.NEELADRI RAO)
VICE CHAIRMAN

DATED: 25th January, 1994.
Open court dictation.

vsn


Deputy Registrar(Judl.)

order copies sent to both the concerned only on 7/7/94

- Copy to:-
1. The Secretary, Ministry of Communications & Director General of Telecommunications, Department of Telecommunications, Sanchar Bhavan, New Delhi.
 2. The Superintending Engineer, (Electrical) Telecom Electrical Circle, Madras-6.
 3. The General Manager, Telecommunications, Hyd.
 4. One copy to Sri. M.S.Nagaraja, advocate, 35, 2nd floor, 1st main road, Gandhinagar, Bangalore-9.
 5. One copy to Sri. , Addl. CGSC, CAT, Hyd.
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