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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH: HYDERABAD

D.A. NO.

314/87

I.A. NO.

DATE OF DECISION

20/7/89

R. Sashikiran Rao

Petitioner

Advocate for the
Petitioner (s)

Versus

GTI Telecom, Hyd

Respondent

Advocate for the
Respondent (s)

CORAM

The Hon'ble Mr. D. Sengar, Member (J)

The Hon'ble Mr. Dileep Chakravorty, Member (B)

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not?
3. whether their Lordship wish to see the fair copy of the Judgment?
4. whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice-Chairman on columns 1, 2, 4. (To be submitted to Hon'ble Vice-Chairman where he is not on the Bench)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT HYDERABAD

/O.A.No. 314 of 1987

Date of Order: 20-9-1989

G.Seshagiri Rao.

...Applicant.

and

1. The General Manager,
Telecommunications, A.P.,
Hyderabad-500 001.
2. The Divisional Engineer,
Telecommunications,
Eluru- 534 050.

....Respondents.

FOR THE APPLICANT: MR. C.SURYANARAYANA: ADVOCATE

FOR THE RESPONDENTS: MR. E.MADAN MOHAN RAO: ADDL.CGSC.

CORAM:

HON'BLE MR.D.SURYA RAO: MEMBER(JUDL)
AND

HON'BLE MR.D.K.CHAKRAVORTY: MEMBER(ADMN)

(JUDGMENT OF THE BENCH DELIVERED BY

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ORIGINAL APPLICATION NO. 314 of 1987
(C.P. 12)

(Judgment of the bench delivered by

1. The applicant herein is now working as Junior Engineer, Phones (OUTDOOR), in the office of the The Divisional Engineer, Telecommunications, Eluru. He filed this application questioning the order of the 2nd respondent on instructions of 1st respondent, communicated under Endt. No.QA/110, dated 7-4-1986, of Sub-Divisional Officer, Phones, Eluru.

2. The applicant states that he was recruited as Reporter Station Assistant (now called Transmission -TA Assistant) in the year 1964 and after training he was appointed as TA w.e.f. 1-6-1966. According to the applicant, the circle seniority (gradation) list of TAs was circulated ~~at~~ the fag end of 1971. The applicant noticed that his juniors were confirmed earlier than him and the names of the applicant and others similarly placed were not shown therein. He states that the seniority list was prepared on the wrong belief that once confirmation is given the seniority is determined on the basis of the date of confirmation ~~but and~~ not according to the year of recruitment and marks secured

by the candidates at the time of initial recruitment. He states that since the seniority was not correctly shown, several representations were made against the same both by the individual employees affected thereby and also by their Union. As a result, revised seniority list was circulated under No.S^T.II/24/7/II, dated 3-9-1973 by the former Post~~tex~~ Master General, Andhra Circle. This was in supersession of the said Post Master General's earlier letters dated 12-11-1968 and 23-6-1969. The applicant states that notwithstanding the seniority lists circulated with the aforesaid letter dated 3-9-1973, the applicant was shown junior to his erstwhile juniors in the circle gradation (seniority) list on the wrong plea that after confirmation seniority is determined on the basis of date of confirmation. He contends that this is not in accordance with the Director General, P & T Letter, No.1-28/60-NCG dated 28-2-1963. As a consequence he was denied protection of his seniority. He made representations~~s~~ stating that he might be confirmed atleast with effect from the date of confirmation of his immediate junior and that his seniority be restored. The same was rejected on the ground that it is belated. Even before disposal of his representation, the applicant's juniors were promoted and appointed as Selection Grade TAs with

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effect from 1-6-1974. The result was juniors got fixation in the higher scale of pay ⁱⁿ consequence of such promotion ~~to~~ the selection grade. They were also promoted as JE's. The applicant was also promoted as JE w.e.f. 30-8-1974, but, he was not given the benefit of higher pay fixation. This was because he was not given promotion as SG TA along with his juniors. The applicant apprehends that his confirmation was deferred ^{for} having taken part in strike in the year 1968 and subsequently orders were issued under DG, P & T No. 35-14/78-SPB.II dated 20-3-1979 directing that those of the 1968 strikers who would have been confirmed earlier but for their participation in the strike will be given notional seniority in their grades from the due dates for the purpose of future promotion in the next higher grade but juniors who had already been promoted and working in the higher grades would not be reverted. The applicant, therefore, submitted a representation dated 1-10-1980 praying that his seniority as TA be restored notionally in accordance with the said orders dt. 20-3-1979 and he be given consequential benefits and incidental benefits. His representation ~~was~~ ^{had} however, rejected by the impugned order dated 7-4-86. He, therefore, filed the present application for a

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direction to the respondents to restore the applicant's seniority as in the list circulated under the former Post master-General, Andhra Circle No. ST.II/24/7/88, dated 3-9-1973 and grant him all the consequential and incidental benefits including pay fixation.

3. On behalf of the respondents a reply affidavit has been filed stating that the applicant was passed over for confirmation in the cadre of Transmission Assistant with effect from 1-3-1967.

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Passing ^{over} of the applicant was not because he participated in the strike, but because the DPC which met on 13-4-1967 considered his case and passed him over for confirmation in the cadre of Transmission Assistant as his record was found to be unsatisfactory. He was later confirmed as Repeater TA Station Assistant/with effect from 1-3-1969.

It is stated that on completion of the training ~~of the training~~, temporary seniority of the Transmission Assts., is fixed in the order of marks obtained by them and their permanent seniority in that cadre is determined with reference to their date of confirmation. In case, ~~an~~ ^{an} official is passed over for confirmation, he will rank junior to those who are confirmed in a particular year. Consequent on his being passed over

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for confirmation by the DPC which met on 13-4-1969, he became junior to the officials who were confirmed as per recommendations of the DPG. In so far as selection grade posts are concerned, it is stated that twenty posts in the selection grade were available in March 1975, that the DPC convened for the purpose of selection, prepared a panel of 24 officials for promotion against the existing 20 vacancies and the remaining 4 as waiting to be absorbed in the future vacancies, that the last official Sri P.Baleshwar who was promoted to the selection grade, who was 8 place above the applicant as reflected in the Circle Gradation list of TAs as on 1-1-1977. The applicant was, however, later promoted as Junior Engineer on 30-8-1974 and was confirmed in the cadre. This was after his having been passed over twice in the year 1978 by the DPC on account of his unsatisfactory record of service for consideration to SG TAs. The question of giving him selection grade in RSA cadre does not arise. Consequently, the applicant's pay in the grade of JE has been fixed in accordance with the rules.

4. We have heard the learned counsel for the applicant Shri C.Suryanarayana and Shri Madan Mohan Rao,

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Additional Standing Counsel for the Central Government, on behalf of the respondents.

5. The facts as narrated above and as contained in the records, disclose that on 3-9-73 the seniority list was revised and that the applicant was given his due seniority in the category of Transmission Assistant. Thereafter, the applicant's own affidavit discloses that a gradation list as on 1-7-75 was forwarded to the applicant wherein he was relegated by 27 places and thus reduced in rank. Consequent ~~of~~ ^{to} such reduction in rank, when promotions were made from the post of Transmission Assistant to Selection Grade Transmission retrospectively, w.e.f. 1-6-74, Assistant, the applicant's name was ignored. Admittedly, the applicant was not promoted due to his being relegated in the seniority list which was due to his being confirmed later than his juniors. The applicant was confirmed w.e.f. 1-3-69 whereas his juniors were confirmed w.e.f. 1-3-67. The applicant made a representation on 22-3-75 to the first Respondent for restoration of seniority and confirmation as RSA(TA) and be placed above his juniors. This representation was rejected by an order dated 20-3-76 on the ground that it is time barred. The applicant thereafter did not question either the non-confirmation or his relegation by 27 places in the seniority list. He also did not

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question the order whereby his juniors were promoted to the selection grade with effect from 1-6-74 by the order dated 7-7-75. No doubt, in the year 1980, the applicant, on the basis of the Director General of P&T's letter No.35-14/78-SPB.II dated 20-3-79 sought restoration of seniority and appointment as a selection grade R.S.A. atleast notionally with effect from August 1974. The ground on which he claimed this relief was that the Director General had ordered that such benefit could be given in regard to those employees who have taken part in the strike in 1968 and their confirmation was thereby delayed. The Respondent by the impugned order dated 25-2-86 informed the applicant that he was not eligible for restoration of seniority since his delayed confirmation was not because of having participated in the strike but because of his bad record of service. The applicant's counsel contended that this order was illegal. He contends that the delayed confirmation and relegation of applicant to lower rank were in violation of the procedure laid down in Rule 14 of the CCA Rules. He also contends that the applicant's relegation in the seniority list is also illegal as delayed confirmation cannot have any adverse effect on his seniority which according to him has to be determined on the basis of marks obtained or ranking at the time of initial recruitment as a T.A. (RSA). We are unable to accept this contention.

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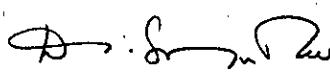
- ① The General Manager,
Telecommunications, A.P.,
Hyderabad - 50001+
- ② The Divisional Engineer,
Telecommunications, Eluru - 534050.
- ③ One copy to Mr. C. Suryanarayana, Aawalek,
1-2-593/50, Soni Rayam, Soni Soni Marg,
Gaganmohal, Hyderabad - 500029.
- ④ One copy to Mr. E. Madam Mohan Rao, Addl. C.G.S, CAT,
Hyderabad.
- ⑤ One copy to Hon'ble Mr. D. K. Chakravorty, Member(A),
CAT, Hyderabad.
- ⑥ One spare copy.

11/10/1989
Sreey
27/01/1991

Dr
Submitted. NC
Received on 26/01/1989
at 12.55
B
26/01/1989

The applicant was aggrieved as long ago as in 1975, both in regard to relegation of seniority list and delayed confirmation. His representation was for seniority and confirmation as a T.A. from 1967 on par with his juniors was rejected by an order dated 20-3-1976. Since these orders have become final, he cannot question the validity of legality of those orders in the year 1987. The fact that the Respondents told him in 1986 that his delayed confirmation was on the ground of his being passed over by the D.P.C. for confirmation and not because he had participated in the strike, would not give him a fresh cause of action. All that is to be looked into now is whether the record confirms the stand of the Department namely that his confirmation was delayed because of the D.P.C. not finding him suitable. For this purpose we have called for the record and we find that the delayed confirmation of the applicant in the year 1969 was not on the ground of his having participated in the strike but because the D.P.C. overlooked him after going through his record. There is, therefore, no infirmity in the order sought to be impugned. We find no merits in the O.A. and the same is accordingly dismissed.

In the circumstances, there will be no order as to costs.


(D. SURYA RAO)

MEMBER (J)


(D.K. CHAKRAVORTY)

MEMBER (A)