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Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 162/89.

Date of Decision : 8.7.99,

~~Plaintiff~~

P.M. Venkatachalam

Petitioner.

Shri K. Sudhakar Reddy

Advocate for the
petitioner (s)

Versus

General Manager, Telecom.,
Hyderabad District & another

Respondent.

Shri N. Bhaskar Rao,
Addl. CGSC

Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. Justice Kamleshwar Nath : Vice-Chairman

THE HON'BLE MR. R.Balasubramanian : Member(Admn)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships 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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(35)

IN THE CENTRAL ADMINISTRARIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.162/89.

Date of Judgment 8.7.1991.

P.M.Venkatachalam

.. Applicant

Vs.

1. General Manager,
Telecom.,
Hyderabad District.

2. D.G.Telcommunications,
Telecommunication Bhavan,
New Delhi. .. Respondents

Counsel for the Applicant : Shri K.Sudhakar Reddy

Counsel for the Respondents : Shri N.Bhaskar Rao,
Addl. CGSC

CORAM:

Hon'ble Shri Justice Kamleshwar Nath : Vice-Chairman

Hon'ble Shri R.Balasubramanian : Member(Admn)

[Judgment as per Hon'ble Shri R.Balasubramanian,
Member(Admn)]

This application has been filed by Shri P.M.Venkata-
chalam under section 19 of the Administrative Tribunals Act,
1985 against the General Manager, Telecom., Hyderabad
District and another.

2. The applicant was initially appointed as a Telephone
Operator in the Hyderabad Telegraph Engineering Division
from 1.5.58. Later, he was transferred to the Hyderabad
Telephone District at his request under Rule 38 of
P&T Manual Vol.IV by which he would be at the bottom of the
seniority list of the unit on the date of his transfer.

After joining the new unit under these conditions the applicant made several representations to get back the original seniority based on the date of his initial appointment viz: 1.5.58 in the Hyderabad Telegraph Engineering Division. It is stated that vide Memo No. ST/GR Cell/33/48/85 dated 9.12.86 the Postmaster-General, Andhra Pradesh Circle reckoned had ~~conferred~~ the date of initial appointment even to some officials who had shifted from one unit to another under ^{for purposes of seniority.} Rule 38 of P&T Manual Vol. IV, When the applicant brought this to the notice of the General Manager, Telecom., and sought his intervention, the respondents had replied him vide letter No. SG-187/Ref/36 dated 21.3.88 that the case of the applicant had already been settled by the Director-General, Posts & Telegraphs vide letter No. 254/3/82-STN dated 10.12.84 and that the decision of the Director-General, Posts would not apply to the Telecommunication Department which is under a different Director-General. The applicant prays that on the lines similar to the one in the Postal Department he should also be given the benefit of his initial date of appointment ignoring the conditions he had voluntarily agreed to under Rule 38 of P&T Manual Vol. IV. In his prayer he does not press for the relief of seniority but only wants the pay fixation notionally as per the position in the Lower Selection Grade from the date from which the applicant's next junior in the Time Scale clerical cadre was promoted as per respondents memo dated 9.12.86.

3. The application is opposed by the respondents.

It is admitted that he was appointed on 1.5.58 as a Telephone Operator in the Hyderabad Telegraph Engineering Division. In October, 1967 he sought for a transfer from the Hyderabad Telegraph Engineering Division to the Hyderabad Telephone District under Rule 38 of P&T Manual Vol. IV. He was transferred and his seniority was regulated according to Rule 38. After joining the new unit, he pressed for his seniority comparing himself with his batchmates who were allotted even initially to the D.E.Phones Division, which in the course of time had been upgraded as a Circle called the Hyderabad Telephone District and independent of the Circle to which the division of recruitment of the applicant belonged. Based on this representation, the Director-General, Posts & Telegraphs vide letter No.254/7/79-STN dated 25.1.80 ordered that the transfer of the applicant to the Hyderabad Telephone District might be treated as repatriation and that he might be given all the benefits including seniority and promotion. This resulted in a spate of representations from the other staff in the Hyderabad Telephone District who were adversely affected and they filed a writ petition in the High Court of Andhra Pradesh. In the writ petition it was contended that by the order of 25.1.80 the Director-General, Posts & Tele-

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graphs would be committing contempt of court as it went against the earlier decision of the High Court of Andhra Pradesh in 1971 dismissing the writ petition filed by some of the Telephone Operators with the same grievance as that of the applicant. The High Court of Andhra Pradesh granted an interim stay and directed the General Manager Telephones, Hyderabad not to proceed in the matter till the case was heard and further orders passed. Finally, in 1984, the Director-General, Posts & Telegraphs rejected the request of the applicant and ordered that his transfer to the Hyderabad Telephone District be treated only as per terms of Rule 38 of P&T Manual Vol.IV which the applicant had voluntarily chosen. They, therefore, plead that the application should be dismissed.

4. We have examined the case and heard the learned counsels for the applicant and the respondents. The applicant is relying on certain decisions of the Postmaster-General. The circumstances under which the Postmaster-General had issued his order of 9.12.86 are not available to us and in any case they are not the parties before us even though the applicant refers to them as respondents. Moreover, the applicant belongs to a different department viz: the Department of Telecommunications and we shall therefore only examine whether the action of the respondents viz: the Department of Telecommunications is right or not.

5. The applicant was initially appointed in the Hyderabad Telegraph Engineering Division where he continued for about 9 years. When he sought for a transfer to the Hyderabad Telephones that unit had become Hyderabad Telephone District which was a Circle independent of the Circle to which the division of recruitment of the applicant belonged. This, therefore, entailed a transfer from one Circle to another and such transfers from one unit of recruitment to another could be only under Rule 38 of P&T Manual Vol.IV. The applicant, therefore, had to seek the transfer only under that inconvenient rule and he agreed to all those conditions. After coming to the new unit on his own volition under the said rule he had no right to ask for restoration of his seniority. That the Director-General, Posts & Telegraphs had erroneously agreed to his request in 1980 which he subsequently reversed in 1984 is a different story not relevant to the issue since the applicant has no right to ask for seniority based on the initial appointment on 1-5-58 in another unit. date of his transfer to the Hyderabad Telephone District. We are, therefore, of the opinion that the respondents are well within their right when they rejected his request by their letter No.SG-187/Ref/36 dated 21.3.88.

6. The prayer of the applicant is for notional promotion from the date his junior in the Hyderabad Telephones unit ^{was} ~~was~~ promoted. The applicant had lost

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his seniority on account of the transfer under Rule 38 of P&T Manual Vol.IV and in the new unit his promotions have to be regulated only according to the new seniority position of the applicant. Such being the case, his notional promotion is not permissible.

7. In view of the above, we dismiss the application with no order as to costs.

KN
(Kamleshwar Nath)
Vice-Chairman.

R.Balasubramanian
(R.Balasubramanian)
Member(Admn).

Dated 8th July 91

8/6/91
Deputy Registrar (Till)

To
1. The General Manager, Telecom
Hyderabad District.
2. The D.G.Telemunications,
Telecommunication Bhavan, New Delhi.
3. One copy to Mr.K.Sudhakar Reddy, Advocate, CAT.Hyd.
4. One copy to Mr.N.Bhaskar Rao, Addl.CGSC.CAT.Hyd.
5. One copy spare.

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