

(30)

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 940/89

Date of Decision : -10-92.

T.A.No.

K.V.S.R.Krishna

Petitioner.

Advocate for the
petitioner (s)

Versus

Respondent.

Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. R.B. lasubramanian, Member (A)

THE HON'BLE MR. C.J.Roy, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *yes*
2. To be referred to the Reporter or not ? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgment ? *no*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *no*
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)

12
HRBS

12
HCJR

(81)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.940/1989

Date of order: 21-10-1992.

Between

K.V.S.R.Krishna

... APPLICANT

A N D

1. The Chairman, Telecom. Commission,
New Delhi (Union of India)
2. Chief General Manager, Telecom.,
Andhra Pradesh, Hyderabad.
3. Telecom District Manager,
Guntur.

... RESPONDENTS

Appearance:

For the applicant : Shri K.S.R.Anjaneyulu, Advocate

For the Respondents : Shri N.V.Ramana, Addl.CGSC

OORAM:

The Hon'ble Shri R.Balasubramanian, Member (Admn.)

The Hon'ble Shri C.J.Roy, Member (Judicial)

J U D G M E N T

(of the Bench delivered by the Hon'ble Shri C.J.Roy, Member/J)

This is an application filed by Shri K.V.S.R.Krishna, of Telecom. Department against the Chairman, Telecom Commission, New Delhi and 2 others under Section 19 of the Administrative Tribunals Act, 1985 seeking a direction to the Respondents to promote him notionally as Supervisory-cum-Operative Operator in the scale of Rs.425-640 w.e.f. 1-6-1974 on par with his juniors and to grant him the consequential benefits including fixation of pay and payment of arrears on the analogy set in by the Ernakulam Bench of the Tribunal in their judgment dt. 16-3-1989 in OA No.126/87.

contd....2.

2. The case of the applicant is that he was initially appointed as Telephone Operator in the year 1958 in the Telecom. Department. In the year 1972 he appeared for the competitive examination for promotion as Repeater Station Assistant (R.S.A.), now being called as Transmission Assistant in the scale of Rs.380-560 (3rd Pay Commission scales) and was successful in the said examination. Consequently, he was appointed as R.S.A. (Transmission Assistant) with effect from 25-5-1974 after undergoing requisite training. He was also confirmed in the said R.S.A. post with effect from 1-3-1979. The applicant claims that he was having lien on the post of Telephone Operator (Technician) though he was working as R.S.A. (T.A.) and as such he is entitled to be promoted as Supervisory-cum-Operative (SCO) Operator in the grade of Rs.425-640 which is a promotional post to Telephone Operator with effect from 1-6-1974, the date from which his immediate junior in T.O. cadre was promoted. The applicant states that he made a representation to the 2nd Respondent on 10-5-1986 in this regard and requesting for protection of his pay but there was no response from the department. After the pronouncement of the judgment dated 16-3-1989 by the Ernakulam Bench of the Tribunal in O.A.No.126/87 the applicant made another representation on 14-9-1989 to the 2nd Respondent requesting him to extend the Ernakulam Bench decision in his case also. To this too there was no reply. Aggrieved, the applicant preferred this Application before us.

contd....3.

3. The Respondents have filed a counter opposing the O.A. It is stated by the Respondents that the applicant was appointed as R.S.A. with effect from 25-5-1974 thereby he severed all his connections with his original cadre of Telephone Operator and that the cadre of R.S.A. (T.A.) is not in the line of promotion for Telephone Operator cadre. It is further stated that in the course of his service as R.S.A. all the benefits of the said cadre including higher grade/promotion available in the said cadre were afforded to the applicant. It is contended by the Respondents in the counter that the R.S.A. (T.A.) cadre is separate cadre (technical) from the cadre of Telephone Operator ^(operative) ~~(technician)~~ and their respective promotional avenues are also different and hence the claim of the applicant at this distant date comparing himself with the others who are in different cadre is not maintainable. It is also contended by the Respondents in the counter that the decision of the Ernakulam Bench does not apply to the case of the applicant herein since it dealt with the case of technicians who were selected and undergoing training as Phone Inspectors, etc. but not absorbed in the said cadre at the time of promotion of their juniors in their parent cadre, to the selection grade technician whereas the case of the applicant herein is different since he had already been absorbed in the post of R.S.A. as on 25-5-74 itself that is, before his Junior in the Technician cadre was promoted.

contd...4.

4. We have heard the learned counsel on both the sides. The short question for consideration in this O.A. is whether an employee who is holding a post ^{in a} ~~on a~~ different cadre ^{different} from his parent cadre and was subsequently confirmed in the said post, was entitled to the benefits of promotion, etc. available in his parent cadre without being actually reverted back to his parent cadre. Admittedly, the post of R.S.A. (T.A.) is not in the channel of promotion in the Telephone Operator (Technician) cadre. Both the posts belong to different cadre. And admittedly, the applicant's claim for promotion in his parent cadre viz. Telephone Operator on par with his juniors is from 1-6-1974 by which date he ^{was} ~~is~~ already holding the post of R.S.A. i.e. in another cadre. Though the applicant may be holding the lien on his parent cadre post of Telephone Operator till ~~his~~ he was confirmed in the category of R.S.A. on 1-3-1979, yet the applicant would be entitled to the benefits ^{due} ~~accruable~~ to him in his parent cadre of Telephone Operator by virtue of his lien in that post, only when he ^{actually} ~~reverts~~ back to his parent cadre. So long as the applicant is continued in another cadre post ^{other} ~~than~~ his parent cadre post, he would be entitled ^{only} ~~to~~ the benefits available to the post he was actually holding. As per F.R. 9(13), the term 'lien' means:

"the title of a Government servant to hold substantially, either immediately or on the termination of a period or periods of absence, a permanent post, including a tenure post, to which he has been appointed substantially."

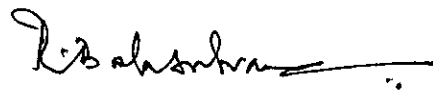
contd...5.


From the above, it is clear that 'lien' enables the applicant to revert back to his parent cadre post of Telephone Operator and of course, on such reversion he may be entitled to claim all the benefits including notional promotion, etc., on par with his immediate junior in the said cadre on notional basis. But so long as he is continuing in the post of R.S.A., he would not be entitled to claim the promotional benefit on par with his junior, in his parent cadre of Telephone Operator without actually being reverted back to that cadre. In the circumstances, the claim of the applicant for notional promotion to the category of S.C.O., with effect from-1-6-1974 is rejected. The Judgment dated 16-3-1989 of the Ernakulam Bench of the Tribunal in O.A.No.126/87 on which the applicant relied upon does not apply to the instant case before us. The applicants before the Ernakulam Bench were only selected and were undergoing training by the time their juniors were promoted in the parent cadre but they were not actually appointed to another cadre posts of Phone Inspector etc. Whereas in the instant case, the applicant was actually appointed to another post of R.S.A., and working in that post by the time his juniors were promoted in his parent cadre. The applicant did not ask for reversion to the operative cadre before he was confirmed as T.A., ie., when he was still having lien in the Operative Branch. Once he was confirmed as T.A., the link with the Operative Branch snapped.

5. It may not be out of place to mention here that in fact the claim of the applicant pertains to the period from 1-6-1974 to 1-3-1979 on which date he was substantively appointed in the category of R.S.A., whereas he has approached this Tribunal only on 20-11-1989. Therefore, the case also attracts the limitation clause under Section 21(1) of the

Administrative Tribunals Act, 1985. The contention of the applicant that the limitation commences from the date of judgment of the Ernakulam Bench of the Tribunal viz. 16-3-1989 is untenable and cannot be accepted.

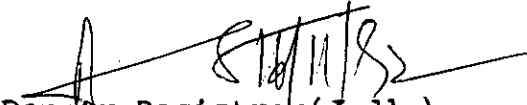
6. In the circumstances, the application fails both on merits as well as on limitation and the O.A. is accordingly dismissed with no order as to costs.


(R. Balasubramanian)
Member (A)


(C. J. Roy)
Member (J).

Dated: 21st day of October, 1992.

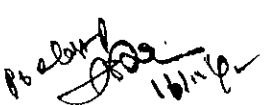
mhb/


Deputy Registrar (Judl.)

Copy to:-

1. The Chairman, Telecom, Commission, Union of India, New Delhi.
2. Chief General Manager, Telecom, A.P. Hyderabad.
3. Telecom District Manager, Guntur.
4. One copy to Sri. K.S.R. Anjaneyulu, advocate, CAT, Hyd.
5. One copy to Sri. N.V. Ramana, Addl. CGSC, CAT, Hyd.
6. One copy to Deputy Registrar (Judl.), CAT, Hyd.
7. Copy to Reporters as per standard list of CAT, Hyd.
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY:
M(JUDL)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

Dated: 21/10/1992

ORDER/JUDGMENT:

~~R.A. / C.A. / M.A. No~~

in

O.A. No.

945784

T.A. No.

(wp. No)

Admitted and interim directions
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected

No orders as to

pvm

