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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.NOs. 120 & 121 of 1990

Date of decision: 21-10-1992.

OA 120/90

Between

E.Pullaiah Chetty

... APPLICANT

A n d

The Union of India, rep. by

1. The Chairman, Telecom Commissioner,
New Delhi.
2. Chief General Manager, Telecom.,
Andhra Pradesh, Hyderabad
3. Telecom District Engineer,
Kurnool.

... RESPONDENTS

OA 121/90

Between

V.E.Ramamurthy

... APPLICANT

A n d

The Union of India, represented by

1. The Chairman, Telecom Commission,
New Delhi.
2. Chief General Manager, Telecom.
Andhra Pradesh, Hyderabad.
3. Telecom District Engineer,
Ananthapur.

... RESPONDENTS,

Appearance:

For the applicants in
both the cases

: Shri K.S.R.Anjaneyulu, Advocate

For the Respondents in
both the cases

: Shri N.V.Ramana, Addl.CGSC

CORAM:

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

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

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

The applicants in both the cases have filed the above O.As. u/s 19 of the Administrative Tribunals Act, 1985 seeking a direction to the respondents to extend the benefits given to the applicants in O.A.No.126/87 by the Ernakulam Bench of the Central Administrative Tribunal as they are also similarly placed and are governed by the same set of rules and to give them promotion as Higher Grade Technician with effect from 1-6-1974 the date of promotion of their immediate junior and to grant them consequential benefits including fixation of pay and payment of arrears.

2. The applicants in both the cases have been appointed originally as temporary 'Mechanics' in the year 1959 in the Telecom. Department and were subsequently confirmed as Telephone Mechanics with effect from 1-3-1962. They appeared for the competitive examination for the post of Repeater Station Assistant (R.S.A.), now being called as Transmission Assistant (T.A.), carrying the scale of pay of Rs.380-560, in the year 1973 and having been successful in the said examination, were subsequently appointed as R.S.As (T.As) with effect from March and February 1975 respectively, after undergoing the requisite training. While undergoing the said training, the applicants were promoted in their parent cadre of Technician as H.G.Technician in the scale of Rs.425-640 with effect from 1-6-1974. However, at the time of their pay fixation in the category of Transmission Assistant, the applicants were specifically

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asked by the Respondents to exercise option whether to continue in the parent cadre of technician or to continue as R.S.A. (a different cadre post) since the latter post carries lesser payscale than the H.G.Technician in the parent cadre. While the applicant in O.A.No.120/90 opted to continue as R.S.A., the applicant in O.A.121/90 opted to revert back to his parent cadre as H.G.Technician. In the meanwhile, by subsequent proceedings, the Department have cancelled their earlier promotions in their parent cadre as H.G.Technician. Consequently, both the applicants continued as R.S.A. and they were subsequently confirmed in the said post with effect from 1-3-1980. The pay of the applicants were fixed at Rs.392/- and Rs.404/- respectively with effect from the date of their appointment as R.S.A. Their representations to the authorities requesting for protection of their last pay drawn in the category of H.G.Technician were rejected. After the pronouncement of the judgment dated 16-3-1989 in O.A.No.126/87 by the Ernakulam Bench of the Tribunal in a similar case, the applicants made fresh representations to the authorities in this regard to which there was no reply. Aggrieved by the same, the applicants have filed these O.As. on 12-2-1990. The applicants mainly contended that since it has been held by the Ernakulam Bench of the Tribunal in its judgment dated 16-3-1989 in O.A.No.126/87 that the technicians who were selected and undergoing training as Phone Inspector, etc., continue to be technicians till they are appointed as Phone Inspectors, etc. and continue to hold lien on the post of Technician cadre till they are substantively appointed as Phone Inspector, etc. and are eligible

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R.S.A.

to get all the benefits accrued to their juniors in the parent cadre till they are substantively appointed as Phone Inspectors, etc., the applicants are entitled to the similar relief as they were also holding the lien on the technician post while officiating in the R.S.A. post until they were confirmed in the post of R.S.A. on 1-3-1980.

3. The Respondents have^{not}/filed any counter in the O.A.No.120/90. They have, however, filed a counter in the O.A.No.121/90 opposing the O.A. It is contended by the respondents that the decision of the Ernakulam Bench does not apply to the case of the applicants herein since the applicants had already been appointed to the post of T.A. whereas the applicants before the Ernakulam Bench were only selected for the post of Phone Inspector, etc. and were undergoing training at the relevant time. It is further contended that by the time the promotion orders as H.G.Technicians were issued on 24-3-1975 with retrospective effect from 1-6-1974 ~~and by~~ the applicants were already appointed as T.As., the said promotion orders as H.G. Technicians were cancelled. They therefore contend that the cancellation of their promotion as H.G.Technician was in order.

4. We have heard the rival sides. The applicants in both the cases mainly relied upon the judgment dated 16-3-1989 of the Ernakulam Bench in O.A.No.126/87. We have gone through the said judgment. It was a case where the applicants were selected and undergoing training for the post of Phone Inspectors, etc. while working as a Technician.

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5. In the case decided by the Ernakulam Bench the P.I. trainees were denied promotion as H.G. Technicians eventhough they were having a lien on the post of Technicians That is not the case here. Knowing fully well, after orders of promotion as H.G. Technicians were issued, that the post of T.A. carried a lower scale than that of H.G. Technician, the applicant opted for the T.A. post on condition that his pay should be fixed under F.R.22-C. The respondents agreed and fixed his pay in the T.A. grade at Rs.392/- p.m. applying F.R.22-C with reference to his substantive post viz: Technician (A-3). The Ernakulam judgement is not applicable in this case since there was no denial of promotion.

6. It may not be out of place to point out here that the claim of the applicants herein pertains actually to the period from 1.6.1974 to 29.2.1980 on which date they were substantively appointed in the category of RSA(TA). In such a situation, the claim of the applicants attracts the limitation clause of Section 21(1) of the Administrative Tribunals Act, 1985 since they have preferred this O.A. only on 12.2.1990. The contention of the applicants that the limitation commences only from the date of pronouncement of the judgement dt. 16.3.1989 by the Ernakulam Bench of the Tribunal is untenable and cannot be accepted.

O.A.No.121/92.

In this case, the applicant opted to go back as H.G. Technician in December, 1975 and this was rejected shortly thereafter. That was when the grievance for the applicant had arisen and he cannot come at this distant date and that too after confirmation in the cadre of Transmission Assistant in 1980. His case is very badly hit by limitation and we do not like to interfere in this O.A. also.

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

Deputy Registrar (Judl.)

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1. The Chairman, Telecom Commissioner, New Delhi.
2. Chief General Manager, Telecom, A.P. Hyderabad.
3. Telecom District Engineer, Kurnool.
4. ~~Telecom District Engineer, Anantha pur~~
5. One copy to Sri. K.S.R. Anjaneyulu, ad vocate, CAT, Hyd.
6. One copy to Sri. N.V. Ramana, Addl. CGSC, CAT, Hyd.
7. One copy to Deputy Registrar(Judl.), CAT, Hyd.
8. Copy to Reporters as per standard list of CAT, Hyd.
9. One spare copy.

Phil Long Beach
12/19/94