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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD  
---

D.A. No. 847/91.

Dt. of Decision : 30-9-94.

M.A. Majeed

.. Applicant.

Vs

1. The Director, Telecom Circle,  
Telecommunications, A.P.  
Ministry of Communications,  
Govt. of India, Hyderabad.

2. The Superintendent,  
Telegraph Traffic Division,  
Telecommunications, A.P.  
Ministry of Communications,  
Govt. of India, Warangal.

.. Respondents.

Counsel for the Applicant : Mr. P. Naveen Rao

Counsel for the Respondents : Mr. N.R. Devaraj, Sr. CGSC.

CORAM:

THE HON'BLE SHRI A.V. HARIDASAN : MEMBER (JUDL.)

THE HON'BLE SHRI A.B. GORTHY : MEMBER (ADMN.)

25/10/94

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O.A.No. 847/91

Dt. 30.9.1994

X As per Hon'ble Shri A.V.Haridasan, Member (Judl.) X

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When the applicant was working as Telegraphman he was promoted as Head Telegraphman on 16.10.90. While he was working as <sup>Head</sup> Telegraphman by order dt. 18.1.91 (Annexure A-1) he was ~~reverted~~ to the post of ~~Head~~ Telegraphman and it was also directed that the excess pay and allowances drawn by him during the period ~~and~~ he worked as Head Telegraphman should be <sup>the</sup> recovered, as <sup>had</sup> a promotion been erroneously made, because, according to the rules a Telegraphman <sup>who crossed</sup> at the age of 58 years, is not entitled to promotion as Head Telegraphman. Hence this application <sup>has been</sup> ~~is~~ filed by the applicant. *Challenging the above order*

2. The respondents in their reply affidavit have contended that as a Telegraphman who ~~had~~ crossed 58 years is not entitled for promotion as Head Telegraphman. The department has no other alternative but to cancel the erroneous promotion, to revert him to the post of Telegraphman and to recover the difference between the pay of the <sup>and that of Telegraphman</sup> said post drawn by him during the interregnum period.

3. When the application came up for final hearing, learned counsel for the applicant conceded that his promotion as Head Telegraphman being erroneous, the action of the respondents in reverting him as Telegraphman cannot be faulted, but he argued that as the applicant was not responsible for the erroneous promotion and as he had actually performed the duties of the higher post during the period of 16.10.90 to 18.7.1991, The action taken

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Copy to:

1. The Director, Telecom Circle,  
Telecommunications, A.P.,  
Ministry of Communications,  
Govt. of India, Hyderabad.
2. The Superintendent, Telegraph Traffic Division,  
Telecommunications, A.P. Ministry of Communications,  
Govt. of India, Warangal.
3. One copy to Mr.P.Naveen Rao, Advocate,CAT,Hyderabad.
4. One copy to Mr.N.R.Devraj,Sr.CGSC,CAT,Hyderabad.
5. One copy to Library,CAT,Hyderabad.
6. One spare copy.

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by the respondents to recover the difference between the pay and allowances of the said Telegraphman and the Head Telegraphman is unreasonable.

4. We have heard Shri N.R.Devraj, learned standing counsel for the respondents. In view of the submission made by the learned counsel for the applicant the controversy in this case <sup>has narrowed down</sup> ~~is very~~ limited. The applicant not being eligible for the promotion as he had crossed the age limit for promotion, the impugned order to the extent of <sup>directing</sup> ~~directing~~ the reversion of the applicant has to be sustained; but we are of the considered view that as the applicant did not contribute for the error committed by the respondents in promoting him as Head Telegraphman it is unduly harsh, if the difference in pay and allowances is recovered from him <sup>as</sup> he had performed the duties and responsibilities of <sup>as</sup> higher post between 16.10.90 and 18.7.91.

5. In view of what is stated above, while we are <sup>up-</sup> holding the impugned order reverting the applicant to the post of Telegraphman, we direct the respondents not to recover the difference in pay and allowances between the post of Head Telegraphman and Telegraphman for the period between 16.10.90 and 18.7.91 <sup>as directed</sup> in the impugned order. We further direct that if any amount <sup>had been</sup> ~~is~~ recovered the same shall be <sup>refunded</sup> ~~returned~~ within a period of 3 months from the date of receipt of this order. It is made clear that this order shall not entitle the applicant for claiming pensionary benefits on the basis of the higher pay drawn by him during the period of 16.10.90 and 18.7.91.

The O.A. is disposed of with no order as to

costs.

(A.B. GORTHI)  
Member (Admn.)

(A.V. HARIDASAN)  
Member (Judl.)

Dated: 30th September, 1994

(Dictated in Open Court)

sd

Deputy Registrar (S)

Typed by  
Checked by

Compared by  
Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR.A.V.HARIDASAN : MEMBER(J)

AND

THE HON'BLE MR.A.B.GORTHY : MEMBER(A)

Dated: 30.9.94.

~~ORDER~~/JUDGMENT.

M.A./R.P/C.P/No.

<sup>in</sup>  
O.A.NO. 847191

T.A.NO.

(W.P.NO.           )

Admitted and Interim Directions  
Issued.

Allowed.

04  
Disposed of with Directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Rejected/Ordered.

No order as to costs.

*NO SPARE COPY*



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*7/10/94*