

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

ORIGINAL APPLICATION NO.1100/92

DATE OF JUDGEMENT: 11-3-1994

Between

1. B. Dastagiraiah

2. M.S.K.A. Basha

3. K. Boya Naidu

and .. Applicants

1. The General Manager (Rayalaseema Area)
Telecommunications
Suryalok Complex, Gunfoundry
HYDERABAD

2. The Chief General Manager
Telecommunications
Sanchar Bhawan, Nampally Stn Rd.,
Abids,
HYDERABAD

3. Director General of Telecommunications,
New Delhi.

4. The Telecom District Manager, Kurnool. Respondents.

Counsel for the Applicants :: Mr Krishna Devan

Counsel for the Respondents :: Mr NR Devraj

CORAM:

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

JUDGEMENT

This is an application filed under Section 19 of the Central Administrative Tribunals Act to direct the respondents, to give the benefit of OTBP scheme to the applicants herein w.e.f. 30.11.1983 and accordingly fix their pay in appropriate stage in the pay scale of Rs.425-640 (revised as Rs.1400-2300) on par with the juniors in the Telephone Operators cadre, and to refix their pay in their present post of Telephones Inspector and to pass such other order or orders as may deem fit and proper in the circumstances of the case.

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2. The facts giving rise to this OA in brief, may be stated as follows:

3. The applicants are three in number. The first applicant was appointed on 4.12.1965 as Telephone Operator in the scale of pay of Rs.110-240 and thereafter got selected in the competitive departmental examination for promotion to the higher grade i.e. Phone Inspector in the year 1978. Accordingly he was appointed as Phone Inspector on 1.2.1980 and his pay was fixed in the pay scale of Rs.380-560 (later revised as Rs.1320-2040 upon IV Pay Commission recommendations in 1986).

4. The second applicant was appointed as Telephone Operator on 1.9.1967 and his pay was fixed in the pay scale of Rs.110-240. The applicant was later promoted by selection as Phone Inspector on 3.2.1980 and the pay of the applicant was fixed in the pay scale of Rs.380-560.

5. The third applicant was also appointed as Telephone Operator on 5.7.1969 and was promoted as Phones Inspector on 8.2.1980 and his pay was fixed in the pay scale of Rs.380-560.

5. On 30.11.83, the Department of Telecommunications ~~XXXX~~ brought the scheme called "One-time bound Promotion (OTBP)". According to this scheme, those who have put in 16 years of service in the basic cadre are promoted and their pay ~~has been~~ ^{has} fixed in the next higher scale of pay. But the said scheme was not extended to the applicants herein. As a result, erstwhile juniors in the Telephone Operator cadre ~~to the applicants herein~~ were drawing more pay than the applicants. According to the applicants this is discriminatory. It is the case of the applicants, that OTBP scheme should ^{be} extended to the applicants also with effect from 30.11.83 and their pay should be fixed at appropriate stage in the pay scale of Rs.425-640 in the post of Telephone Operators and and their ^{frankly}

pay in the present post also has to be refixed with all consequential benefits. Hence, the present OA is filed by the applicants for the relief(s) as already indicated above.

6. Counter is filed by the respondets opposing this OA. Reply affidavit is also filed by the applicants to the counter of the respondents.

7. We have heard learned counsel for both the parties.

8. Under the OTBP scheme, telephone operators, who have put in 16 years of service will be entitled to have the benefit of OTBP scheme. Likewise, Telephone Inspectors, Transmission Assistants, Telephone Assistants, Wireless Operators, ~~maxxake~~ (which are promotional posts from the post of telephone operators) will also be entitled to the benefit of OTBP scheme if they had put in 16 years of service in that cadre (promotional cadre). Both the Telephone Operators' cadre and the promotional cadre, namely, Telephone Inspectors, Transmission Assistants, Wireless Operators, etc., are governed by the OTBP scheme. It is the grievance of the applicants as already pointed out, that ~~maxxix~~ they are entitled for the benefit of OTBP scheme in the post of Telephone Operators and that their pay is liable to be fixed as Telephone Operators under the OTBP scheme and further also, their pay is liable to be refixed in the posts of Telephone Inspectors and all the benefits that ¹ ~~are~~ accrued to them with effect from 30.11.83 ~~had~~ (the date from which the OTBP scheme had come into effect) have got to be paid to them.

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9. Regarding entitlement to OTBP scheme with regard to Group 'C' and 'D' in the Department of Telecom, we may refer to Paras, 2,3 and 4 of Deptt. of Telecommunications letter No.1-71/3-NCG (Vol.II) dated 20.11.90 which reads as follows:

"2. The cadres which are covered under the OTBP scheme are indicated in Annexure X 'A' of the OM dated 17.12.83 referred to above is so far as the scheme applies to the Department of Telecom. The OTBP scheme provides inter-alia, Group 'C' cadres like Transmission Assistants, Wireless Operators, etc. in the pre-revised scale of Rs.380-560 (who are recruited by promotion from basic cadres like Telephone Operators, Telecom Office Assistants, etc. in the pre-revised scale of Rs.260-480) would be eligible for placement in the higher scale of Rs.425-750 after rendering 16 years in the promotional cadre of Transmission Assistant, Wireless Operators, etc. These officials (i.e TAs WOs, etc.) are not eligible for OTB Promotion in the erstwhile basic cadre of Telephone Operators, Telecom Office Assistant etc. The staff side of the Departmental JCM have requested that such of these officials (promotional cadres) in Group 'C' and Group 'D' may be allowed to opt for drawing pay in the OTBP scheme of their basic (original) cadre, if it is advantageous to them.

3. The case has been examined. It has been decided that officials in the higher cadre of Group 'C' and 'D' of the Department of Telecom (such as PI, AEA, etc.) who are covered by the one Time Bound Promotion scheme may be allowed option to draw pay in the basic (original) cadre, if it is advantageous to them. These officials who opt for such OTBP Scale of basic cadre will however, continue to work in the existing cadre, such as Transmission Assistant, Wireless Operators, etc.

4. The option referred to above should be exercised by the concerned officials within six months of the date of issue of these orders of the date of eligibility for One Time Bound Promotion in the basic (original) cadre whichever is later. Option once exercised will be final."

10. Admittedly, Telephone Operators belong to Group 'D' Category, whereas, Telephone Inspectors, Transmission Assistants, Wireless Operators, etc., Belong to Group 'C' cadre. From the above extracted paras of Deptt. of Telecom letter dated 20.11.90, it is amply evident that only those persons who are covered by the CTBP scheme are allowed to exercise option to draw pay in the basic (original) cadre, if it is advantageous to them. So, unless the applicants herein had completed 16 years of service in their basic cadre, namely, in the post of Telephone Operators, it is not open for them to come under OTBP scheme. None of the applicants herein had completed

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16 years of service in their basic cadre namely, Telephone Operators. Even before completion of 16 years in the cadre of Telephone Operators, the applicants had been selected to the post of Telephone Inspectors and had been appointed as such. So, as the applicants had not completed 16 years of service in the basic cadre, namely, Telephone Operators, the applicants do not have a right at all to come under OTBP scheme. So as the applicants cannot come under OTBP scheme, they cannot have any claim for the benefit under OTBP scheme.

11: The learned counsel for the applicant contended that after the applicants were promoted as Phones Inspectors that the OTBP scheme was framed and had come into effect from 30.11.1993 onwards and so, the combined services of the applicants both as Telephone Operators and Phone Inspectors have got to be taken into consideration in extending the benefits of OTBP scheme with effect from 30.11.93 and in view of this position, that the applicants ought to be given the benefit of OTBP scheme. But, the letter issued by the Telecom Department referred to above, does not show that the combined services put in by an employee both in the basic cadre as well as in the promotional cadre can be taken into consideration for giving the benefit of OTBP scheme. On the other hand, the letter makes it clear, to have the benefits of OTBP scheme, that it is necessary on the part of the employee to have completed 16 years of service either in the basic cadre or in the higher cadre. The arguments advanced by the learned counsel is contra to what is contained in the Deptt. of Telecom letter dated 20.11.90. Hence, the contentions of the learned counsel for the applicants that the applicants ought to be given the benefit of OTBP scheme taking into consideration the combined services of the applicants in the basic cadre and higher cadre cannot be accepted.

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12. The learned counsel for the applicants further drew our attention to a Memo of the Deptt. of Telecommunications, Office of Telecom Distt. Engineer, Nellore, dated 21.2.92 which reads as follows:

DEPARTMENT OF TELECOMMUNICATIONS

Office of the Telecom District Engineer, Nellore-50

Memo No.E47/P/II/5

dated at Nellore the 21.2.92

In supersession of this office promotion orders issued vide this office Memo No.E47/P/II/4 dated 15.2.92 the following Transmission Assistants who have opted for OTB promotion in basic cadre are hereby promoted to the higher scale of pay under OTBP scheme in their basic cadre w.e.f. 30.11.83.

<u>No.</u>	<u>Name</u>	<u>Date of appt. in Basic cadre</u>
1.	Sri P. Gopalaiah, TA, GUD	11.11.57 as TO
2.	Sri Y. Murlidhar, TA, NLR	05.01.63 as TO
3.	Sri P. Venkataswamy, TA, KVI	27.12.58 as TO
4.	Mrs V. V. Subba Reddy, TA, NLR	17.08.63 as TO

Sd/-
Telecom District Engineer
Nellore-524 050 "

On the basis of the above proceedings, it is contended that the Telephone Operators, who had been promoted to the post of Transmission Assistants had also been given the benefit of OTEP scheme in their basic cadre w.e.f. 30.11.83 by the respondents and in not extending the same benefit to the applicants herein is highly discriminatory. No material is placed before us to show that the persons mentioned in the above said Memo of the Telecom Distt. Engineer, Nellore, dated 21.2.92 had not completed 16 years of service in their basic cadre namely as Telephone Operator before they were promoted to the next higher grade that is Transmission Assistants.

To

1. The General Manager (Rayalaseema Area)
Telecommunications, Suryalok Complex,
Gungoundry, Hyderabad.
2. The Chief General Manager,
Telecommunications, Sanchar Bhavan,
Nampally Station Road, Hyderabad,
3. The Director General of Telecommunication,
New Delhi.
4. One copy to Mr. Krishna Devan, Advocate, CAT.Hyd.
5. One copy to Mr. N.R. Devraj, Sr.CGSC.CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.
8. The Telecom District Manager, Kurnool.

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We are informed that the above four persons mentioned in the said memo had been given the benefit of OTBP scheme as they had completed 16 years of service in the basic cadre and that they got promotions as Transmission Assistants only after completion of 16 years service in the basic cadre of Telephone Operators. So, as the persons mentioned in the said memo had completed 16 years of service in their basic cadre and had been given the benefit of OTBP scheme, it is not open for the applicants to compare themselves with ~~xxxx~~ those 4 persons namely S/Sri Gopalaiah, Muralidhar, Venkataswamy and Subba Reddy, and claim benefits on parity, with them under the OTBP scheme.

13. So as the applicants herein had not completed 16 years of service in their basic cadre like the applicants mentioned in the Memo dated 21.2.92, the respondents have acted in confirmity with letter of the Deptt. of Telecom letter dated 20.11.90. So, as the applicants are not entitled for the benefit of OTBP scheme, this OA is liable to be dismissed.

But, nevertheless, as seen from the counter of the respondents, the applicants have since been promoted in their basic cadre of Telephone Operators under One Time Bound Promotion (OTBP) scheme with effect from 20.11.90 as per the memo of the Telecom District Manager, Kurnool, dated 2.4.93 with regard to their options exercised by them for OTBP scheme. In view of the above, the applicants ~~xxxx~~ absolutely should not be having any grievance.

14. In the result, we see no merits in this OA and hence, this OA is liable to be dismissed and is accordingly dismissed leaving the parties to bear their own costs.

T.C
(T.CHANDRASEKHARA REDDY)
Member (Jud1.)

Dated:

11-3-

1994

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23/3/94
Deputy Registrar

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. CHIEF JUDGE V. NEELADRI RAO
VICE-CHAIRMAN

AND

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

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

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER
(ADMN)

Dated: 11-3-1994.

ORDER/JUDGMENT:

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

O.A. No. 1100/93
T.A. No. (W.P. No.)

in

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Admitted and Interim Directions
issued.

Allowed.

Disposed of with Directions. CATCH

Dismissed.

Dismissed as withdrawn.

Dismissed for Default. HYDERABAD BENCH.

Rejected/Ordered.

No order as to costs.

AM 30 MAR 1994
30 MAR 1994
30 MAR 1994