

(40)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

O.AU 796/93.

Dt.of Decision : 28.12.94.

1.S. Devadass  
2.S.H.V.Prasada Rao

.. Applicants.

Vs

1. The Union of India, rep.  
by the Director General,  
Telecommunications,  
New Delhi-110 001.
2. The Chief General Manager  
Telecommunications,  
Andhra Circle,  
Hyderabad-500 001.

.. Respondents.

Counsel for the Applicants : Mr. J.V.Lakshmana Rao

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

CORAM:

THE HON'BLE SHRI JUSTICE V.NEELADRI RAO : VICE CHAIRMAN

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

(41)

OA 796/93.

JUDGMENT

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE-  
CHAIRMAN)

Heard Shri J.V.Lakshmana Rao, learned  
counsel for the applicants and Shri N.R.Devaraj,  
learned standing counsel for the respondents.

2. The applicants who ~~were~~<sup>are</sup> ST candidates  
joined service as JTOs (Junior Engineers) in 1968.  
Para ~~209~~<sup>206</sup> of the P&T Manual envisages that year of  
passing the qualifying departmental examination  
should be taken as the basis for fixing seniority  
for promotion to the post of Assistant Engineer  
(Group 'B'). The validity of the said para of the  
P&T Manual was upheld by the Allahabad High Court  
by the order dated 28.2.1985 in W.P.No~~2~~ 2739 and  
~~3522/81~~ 3652/81 (Parmanand Lal ~~and~~ Brij Mohan Vs.  
Union of India and others). The Apex Court upheld  
the above judgment of the Allahabad High Court.

3. The applicants herein are claiming that  
their seniority has to be fixed by taking into  
consideration the year of their passing the quali-  
fying departmental examination. The contention  
for the applicants is that, if the seniority is so  
fixed, they are entitled to the promotion as  
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Assistant Engineers in 1974/1975 while in fact they were promoted as Assistant Engineers in 1978 (It is a typographical mistake when the ~~order~~ <sup>year</sup> of promotion was referred to <sup>as</sup> 1979 instead of 1978 in the relevant portion at Para-8 of the OA).

4. This OA is filed praying for direction to the respondents to restore the original seniority fixed for the applicants besides ordering revision of date of promotion from 1979 to 1974 or 1975 with all consequential benefits.

5. Their Lordships of the Supreme Court held in (1994) 26 ATC 367 (Junior Telecom Officers Forum and others Vs. Union of India and others) that the ~~year~~ of passing the departmental qualifying examination and not ranking given at the time of selection as JTO that has to be taken as the basis for fixing seniority for consideration for promotion to the post of AE and thus affirmed the judgment of Allahabad High Court referred to above. As such the respondents are directed to fix the seniority of the applicants in the category of JTOs as referred to above if it is not yet so fixed.// It was held by the Apex Court in 1994 SCC (L&S) 964 (Telecommunication Engineering Service Association (India) and another Vs.

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Union of India and another) that on the basis of fixation of seniority as per the above judgment, if it is ~~noted~~<sup>found</sup> that the juniors were promoted earlier to the dates on which the seniors are/were promoted as AES, the seniors have to be given ~~notional~~<sup>notional</sup> promotion from the date the junior was promoted, but monetary benefits, in case junior ~~was~~ <sup>is</sup> getting higher pay, <sup>has to be given</sup> from the date on which the senior was actually promoted.

6. Hence, if it is necessary to prepone the date of promotion of the applicants as Senior Engineers on the basis of fixation of their seniority as per this order or if it is already done, they have to be given notional promotion from the preponed date and they have to be given the monetary benefits from the date on which they assumed the post of Assistant Engineer in case their juniors in the ST category got more pay <sup>than</sup> ~~the~~ pay of the applicants in the category of Assistant Engineers.

7. In the result, the OA is ordered as under:-

(i) The seniority of the applicants in the ~~cadre category~~ of JTOs for consideration for promotion to the cadre of AES, has to be fixed by taking the year of their passing the qualifying

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(44)

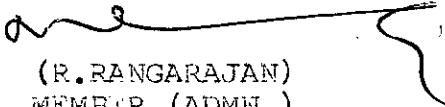
.. 5 ..

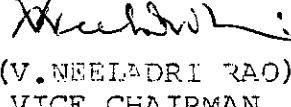
departmental examination envisaged in Para 209 of P&T Manual, if it is not yet done ~~in~~ in pursuance of the judgment of the Tribunal/Supreme Court;

(ii) On fixation of the seniority as referred to in Para (i) above, if it is necessary to postpone the promotion of the applicants as AES, by keeping in view the roster points for STs, the same has to be done; and

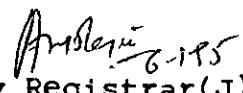
(iii) In case it is necessary to postpone the date of promotion of the applicants as AES, the promotion as on that date should be treated as notional promotion and the applicants have to be given the monetary benefit from the dates they actually assumed the posts of AES, ~~the~~ in ~~xx~~ case their juniors among STs got more pay than their pay in the cadre of AES;

(iv). No costs. /

  
(R. RANGARAJAN)  
MEMBER (ADMN.)

  
(V. NEELADRI RAO)  
VICE CHAIRMAN

DATED: 28th December, 1994.  
Open court dictation.

  
Deputy Registrar (J) CC

To vsn

1. The Director General, Union of India, Telecommunications, New Delhi-1.
2. The Chief General Manager, Telecommunications, Andhra ~~Etat~~ Hyderabab-1.
3. One copy to Mr.J.V.Lakshmana Rao, Advocate, F.No 301 Balaji Towers, New Bakaram, Hyderabad.
4. One copy to Mr.N.R.Devraj, Sr.CGSC. CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

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

AND

THE HON'BLE MR. R. RANGARAJAN : M(ADM.)

DATED: 28-12-1994

ORDER/JUDGEMTN:

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

in

O.A.No.

796/93

T.A.No.

(w.p.)

Admitted and Interim directions  
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected

PVM

No order as to costs

