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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.94/93.

Date of order : 12.2.1997.

Between

V.Venkata Raju

.. Applicant

And

1. The Sub-Divisional Officer,
Telecom.,
Tirupati-517501.

2. The Telecom. Dist. Manager,
Tirupati-517501.

3. The Director-General,
Telecom., (Reptg. U.O.I.)
New Delhi-110001. .. Respondents

Counsel for the Applicant .. Shri C.Suryanarayana

Counsel for the Respondents .. Shri V.Rajeswara Rao,
Addl. CGSC

C O R A M

Hon'ble Shri Justice M.G.Chaudhari : Vice-Chairman

Hon'ble Shri H.Rajendra Prasad : Member(A)

Order

(Per Hon'ble Shri Justice M.G.Chaudhari : Vice-Chairman)

The only relief sought by the applicant is that the Memo No.E/47-8/54 dated 29.7.88 issued by the respondents be declared to be valid and direct the respondents to treat him as Sub Inspector (Supervisory) w.e.f. 29.7.88 to protect his seniority accordingly. The memo aforesaid dated 29.7.88 is at annexure A-6. That was issued by the Office of Telecom. Dist. Engineer, Tirupati. That memo reads as follows:

"The following Sub Inspector(O)s who have been selected as regular SUB INSPECTORS are hereby transferred and posted to the places noted against each."

2. The name of the applicant is at the last at Sl.No.6 in the list. The applicant's "present station" was stated as SI(O)Palamangalam (under SDOT-TRP). The place where he was

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"posted to" was mentioned as SI, Ekambarakuppam (under SDOT-TRP). The order leaves no manner of doubt that while the applicant was already holding the position as SI(O) he was selected as regular SI and was as such posted at Ekambarakuppam. The note below the memorandum shows that the order was sent to all SDOs in Tirupati Telecom. District with a request to intimate the date of relief and joining promptly. It is averred by the applicant in para 4.5 of the O.A. that although the aforesaid order was passed but for reasons best known to the concerned authorities the order selecting and posting him on a regular basis as SI was not implemented. Consistently with that averment he has sought the relief mentioned earlier.

3. In his representation dated 8.10.92 (Annexure A-8) submitted to the Telecom. Dist. Manager, Tirupati the applicant had stated as follows:

"Though I was happy for a short while for issuing the Memo No.E/47-8/54 dated 29.7.88 promoting me to regular SI by the Telecom. Dist. Manager, Tirupati, the joy and happiness was never lost long, as the said orders were kept in abeyance the reasons for which were not known and it was a great wonderful shock that my juniors are given promotion, whereas the senior like me was deprived of. Though I have represented to your kind honour long ago, the representation or my humble request has not yet seen the day light."

4. He requested that his case may be considered for promotion with retrospective effect as per the abovementioned order. The reply of the respondents dated 5.1.93 to the aforesaid representation dated 8.10.92 does not refer to the abovementioned grievance or request of the applicant but narrates that the selection of SIs(S) was ordered based on the Linemen gradation list as on 1.7.85 and that the gradation list of 1.7.92 has been prepared and issued keeping the position of the divisional gradation list as on 1.7.85 of

Tirupati Division and that the applicant was informed accordingly.

5. Assuming that the reply mentioned above given by the respondents could imply that the regular selection of the applicant in 1988 was wrong and could not be given effect to by reason of his position in the gradation list. ^{that is} ~~thus~~, neither he is here nor there and the counter filed by the respondents does not permit such an implication to be drawn. We have already referred to the categoric averment made by the applicant in para 4.5 of the O.A. While replying to that para the respondents have not referred to the order dated 29.7.88 and ~~have not~~ stated whether it was implemented or could not be implemented.

After stating that the applicant was promoted as SI(O) on completion of 16 years of service as Lineman w.e.f. 11.4.86 ~~but~~ it was subsequently cancelled. That however is a statement relating to the promotion given in 1986. The order at annexure A-6 was subsequent thereto passed on 29.7.88. Not only not in para 5 but nowhere in the counter the respondents have spoken about the said order. There is therefore nothing to persuade us to take the view that either the order dated 29.7.88 was not issued or for any valid reason the benefit thereof could not be extended to the applicant despite his representation dated 8.10.92 ^{and by} avoiding to deal with that aspect in reply to the representation as well as in the counter, the respondents cannot get over the said order ^{or} and keep silent.

6. ~~The learned counsel for the applicant drew our attention about the position of implementation of the order dated 29.7.88.~~
The representation of the applicant dated 8.10.92 shows that the applicant is working as SI(O) Puttur.

7. The prayer made by the applicant and reiterated before us by Shri C.Suryanarayana that the applicant is entitled to be treated as SI(S) however has no foundation laid ⁱⁿ to the application. It has not been explained as to what is the difference between a regular SI and a supervisory SI. The order dt.29.7.88

does not use the word "supervisory". The relief sought by the applicant therefore is beyond the scope of the said order. Moreover, after the applicant is appointed as SI on a regular basis what nature of duties should be assigned to him would be an administrative matter and the proper way for the applicant in that event would be to approach the authorities concerned for assigning of any particular duties. That cannot be directed as an order by the Tribunal.

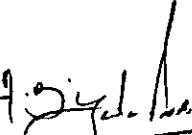
8. We are therefore constrained to take the view in the absence of effective contest on the part of the respondents to hold that the order dated 29.7.88 entitled the applicant to be treated as SI on a regular basis with effect from that date. It may be added that ^{even if} ~~after~~ the respondents have not taken steps to relieve the applicant from the post of SI(O) to enable him to join the post under that order as SI on a regular basis the applicant cannot be held responsible for the same. At the same time since the applicant has not actually worked in pursuance of the said order actual monetary benefits thereof cannot be allowed to him. We are therefore inclined to give him notional benefit of the order dated 29.7.88 with effect from that date and actual service benefits including monetary benefits, if any, w.e.f. 21.2.92 on which date the applicant has filed the first representation (annexure A-7) and ^{as} the same ground was repeated in the representation dated 8.10.92, since the respondents have not denied the fact of the first representation dated 21.2.92 being filed and have not come out with any explanation in that respect in the counter. In the circumstances the following order:

Order.

It is declared that the applicant stood promoted as a regular SI by the order dated 29.7.88. The respondents are hereby directed to give him notional promotion w.e.f. 29.7.88 as SI on regular ^{basis} promotion and to give him actual service benefits

including monetary benefits, if any, with effect from the date of his first representation dated 21.2.92 (annexure A-7).

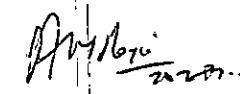
9. The O.A. is accordingly allowed. No order as to costs.


(H. Rajendra Prasad)
Member (A).


(M.G. Chaudhari)
Vice-Chairman.

Dated: 12.2.1997.
Dictated in Open Court.

br.


Deputy Registrar (D) cc

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6/3/97.

I COURT

TYPED BY

CHECHED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE M.G.CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR.H.RAJENDRA PRASAD
MEMBER(ADMN)

Dated: 12-2-1997

~~ORDER~~ JUDGMENT

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

in

O.A.No. 94/93.

T.A.No. (W.P.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

To order as to costs.

p.v.m.

केन्द्रीय प्रशासनिक विधायिका
Central Administrative Tribunal