(34)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

OA.1523/93; 43/94; 1078/94; 1193/94 & 1226/94 date : 30-11-94

Between

1. N. Balakrishna
2. S. Penchalaiah
3. S. Krishna Murthy
4. A. Rajeswara Rao
5. O. Bhaskara Rao
6. Bhamidi Suryanarayana
7. Ch. V. Subba Rao
8. U. Thukaram
9. G.V.V.Satyanarayana : Applicants in OA.1523/93
10. T. Lakshminarayana
11. V.V. Koteswara Rao
12. P. Sree Ramamurthy : Applicants in OA.43/94
13. B.V. Narashimham
14. B. Sithapathi Rao
15. Ch. Narayanaswamy
16. D. Sitaramaiah : Applicants in OA.1078/94
17. K.L.N.Moorthy : Applicant in OA.1193/94
18. Ch. Veeraraghavulu
19. S. Ganapati
20. T.Narashimhamurthy
21. B. Lakshmi Narayana
22. V. Naga Chari : Applicants in OA.1226/94

and

1. The Chief General Manager
Telecommunications
Andhra Pradesh
Hyderabad

2. Union of India, rep. by
the Director General
Dept. of Telecommunications
New Delhi : Respondents common in all the OAs.

3. The Secretary
Ministry of Telecommunications
New Delhi : R-3 in OA.1078/94; 1226/94 and OA.1193/94

4. The Chief General Manager
Southern Telecom Region
Madras 600001 : R-4 in OA.1193/94

Counsel for the applicants in all the OAs : K. Venkateswara Rao, Advocate

Counsel for the Respondents except in OA.1226/94 : N.R. Devaraj, SC for Central Government

Counsel for the respondents in OA.1226/94 : V. Bhimanna, SC for Central Government

9. In all the above OAs there is no challenge to the earlier adhoc promotion of their juniors. The only relief sought for by the applicants is that they are also entitled to step up of their pay with respect to their juniors as the applicants never refused the promotion even on adhoc basis and that their juniors were promoted on adhoc basis without considering their cases for such achoc promotions. It is stated by the applicants that the anamoly in their monthly emoluments i.e. the junior drawing more pay than the senior was the creation of the department and hence their pay should be stepped up. They rely on the following judgments wherein the stepping up of pay was permitted under similar circumstances. The relied upon judments are -

(i) Judgment dt. 29.10.1993 of Ernakulam Bench in O.A.No.1156/93.

(ii) Judgment dt. 11.1.1994 of MadrasBehch in O.A.No.1129/93.

(iii) Judgment dt. 19.7.1994 of Bangalore Bench in O.As 349/94 and 357 to 367/94; and

(iv) Judgment dt. 18.8.1994 of Calcutta Bench in O.A.No.1426/93.

10. The learned counsel for the respondents relied upon G.I.M.F. O.M.No.F.2(78)E.III(A)/66 dt. 4.2.1966 wherein three conditions were stipulated for stepping up of pay. The respondents further stated that as the said conditions were not fulfilled for stepping up of their pay the applicants are not entitled for the same. They also quoted the letter No.4-31/92-PAT dt. 31.5.1993 by which stepping up of pay was prohibited.

...5/-

OA was filed praying for stepping of their pay in the cadre of Accounts Officer so as to equal to the pay of Sri B.Balasubrahmanian (Staff No.80737) who was junior to them in the immediate lower ~~s~~ cadre of Junior Accounts Officer.

6. Applicant in O.A.No.1193/94 who had retired as Chief Accounts Officer, under the control of R-1, Department of Telecommunications, A.P., Hyderabad has filed this OA for stepping up of his pay in the cadre of Accounts Officer so as to equal to the pay of Sri J.L.Nehru (Staff No.80608) who was junior to him in the immediate lower cadre of Junior Accounts Officer. (The applicant retired on supernnuation on 30.11.1992).

7. The applicants numbering 5 in O.A.No.1226/94 are working as Accounts Officers under the control of R-1 Department of Telecommunications, A.P., Hyderabad. This OA was filed praying for stepping up of their pay in the cadre of Accounts Officer so as to equal to the pay of Sri K.Sankara Narayanan (Staff No.81537) who was junior to them in the immediate lower cadre of Junior Accounts Officer.

8.. The posts of Junior Accounts Officer and Accounts Officer in the Telecommunic tions Department are All India cadre. The promotion from the post of Junior Accounts Officer to Accounts Officer is on the basis of seniority-cum-fitness. The avenue of promotion for the Accounts Officer is to the cadre of Senior Accounts Officer and from there to Assistant Chief Accounts Officer and then to Chief Accounts Officer.

...4/-

13. As the applicants in all these OAs are similarly situated as the applicants in O.A.Nos.974/93 & 1001/93, we do not find any reason to differ from the Judgment of this Bench in the above quoted OAs.

14. In the result, the following directions are given:-

(i) Stepping up of pay as prayed for in O.A.No.1523/93 is allowed in regard to the applicants therein. But, the monetary benefits are limited from 1.1.1991 (this OA was filed on 2.12.1993),

(ii) Stepping up of pay as prayed for in O.A.No.43/94 is allowed in regard to the applicants therein. But, the monetary benefits are limited from 1.1.1991 (this O.A. was filed on 31.12.1993),

(iii) Stepping up of pay as prayed for in O.A.No.1078/94 is allowed in regard to the applicants therein. But, the monetary benefits are limited from 1.9.1991 (this OA was filed on 28.8.1994),

(iv) Stepping up of pay as prayed for in O.A.No.1193/94 is allowed in regard to the applicant therein, but the monetary benefits are limited from 1.10.1991 (this OA was filed on 12.9.1994). As the applicant in this OA had retired on 30.11.1992 on superannuation his terminal benefits have to be re-fixed taking revised fixation of pay if required and arrears of terminal benefits, if any, have to be paid accordingly.

..7/-

11. This Bench had disposed of two OAs viz. O.A. No.974/93 and 1001/93 by its Judgment dt. 29.11.1994, wherein the applicants in those OAs are similarly situated as the applicants in these OAs, allowing the prayer of the applicants for stepping up of their pay following the judgments of Ernakulam, Madras, Bangalore and Calcutta Benches. It was held in the above two OAs that it will be arbitrary if the senior's pay in the promotional cadre is less than that of their juniors and hence it will be violation of Article-14 of the Constitution of India. Letter dt.31.5.93 of the Department of Telecommunications quoted by the learned counsel for the respondents will have no application to these cases as it will have only prospective effect. If at all the instructions quoted in the said letter are in order this letter will have no bearing in regard to the cases on hand as the anamoly in all these cases had occurred earlier to the issue of that letter. This view is also in accordance with the view taken by the Calcutta Bench of the Tribunal reported in (1994(3) SLJ (CAT)-378 - Baidyanath Bandopadhyay Vs. Union of India and anor.)(.

12. It was also held in those two OAs disposed of by the judgment dt. 29.11.1994 that the applicants in those OAs are entitled to get monetary benefits for three years prior to the date of filing of those OAs or from the date from which their junior is drawing more pay than that of the applicants who are senior whichever is later. The normal convention of allowing monetary benefit from one year prior to filing of the OAs as followed by this Bench in all such cases has been varied to three years as the applicants belong to All India cadre and for other reasons stated therein.

....6/-

(v) Stepping up of pay as prayed for in O.A.No. 1223/94 is allowed in regard to the applicants therein. But, the monetary benefits are limited from 1.10.1991 (this OA was filed on 12.9.1994).

15. The above OAs are ordered accordingly. No ... /

CERTIFIED TO BE TRUE COPY

Date..... 13/12/94.

Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad

To
1. The Chief General Manager, Telecommunications, Andhra Pradesh, Hyderabad.
2. The Director General, Department of Telecommunications, New Delhi.
3. The Secretary, Ministry of Telecommunications, New Delhi.
4. The Chief General Manager, Southern Telecom Region, Madras 600 001.
5. One copy to Mr.K.Venkateswar Rao, Advocate,CAT,Hyderabad.
6. One copy to Mr.N.R.Devraj,Sr.CGSC,CAT,Hyderabad.
7. One copy to Mr.V.Bhimanna, SC for Central Govt. , Hyderabad.
8. One copy to Library,CAT, Hyderabad.
9. One spare copy.

YLKR