

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.Nos.1412/93, 127/94 & 129/94

Date of order: 22-2-1995.

Between

1. B.L.Somayajulu	
2. K.Gangajala Rao	
3. G.V.S. Nanda Rao	
4. G.Sambasiva Rao	... Applicants in OA 1412/93
R.Krupachary	... Applicant in OA 127/94
1. L.Venkat Reddy	
2. P.Lakshminarayana	
3.	... Applicants in OA 129/94

A N D

1. Telecom Commission,
rep. by its Chairman &
ex-Officio Secretary to Govt.
of India, Ministry of
Communications, Sanchar Bhavan
New Delhi-110 001.
2. The Chief General Manager,
Telecommunications,
Andhra Telecom. Circle,
Hyderabad-500 001.

APPEARANCE:

Counsel for the applicants in OA 1412/93 : Shri S. Jayaramayana, Advocate
Counsel for the applicants in OAs 127 & 129/94 : Shri D. Madhava Reddy, Advocate
Counsel for the respondents in OA 1412/93 : Shri V. Bhimanna, CGSC
Counsel for the respondents in both OAs 127 & 129/94: Shri N.R. Devaraj, Sr. CGSC

CORAM:

Hon'ble Shri Justice V.Neeladri Rao, Vice-Chairman
Hon'ble Shri R.Rangarajan, Member (Admn.)

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6. Shri Godse was JTO of Gujarat Circle, and Shri Pai and Shri Patiwal were JTOs of Mahanagar Telephones Nigam Limited, Bombay before they were regularly promoted as A.E. Shri Godse, Shri Pai and Shri Patiwal were promoted as A.Es. on adhoc basis before they were regularly promoted as A.Es. and their regular promotions as A.E. were later than the regular promotions of 1st applicant, 2nd and 4th applicants, and 3rd applicant respectively. The pay of Shri Godse was less than that of the 1st applicant in the category of JTO by the time Shri Godse was promoted on adhoc basis, and similarly the pay of Shri Pai was less than that of 2nd and 4th applicants in the category of JTO by the time Shri Pai was promoted as AE on adhoc basis, and the pay of Shri Patiwal was less than that of 4th applicant in the category of JTO by the time Shri Patiwal was promoted as A.E. on adhoc basis.

7. But as already observed, the 1st applicant and Shri Godse did not belong to the same circle when they worked as JTOs, applicants 2 and 4 and Shri Pai did not belong to the same circle when they worked as JTOs and similarly the 3rd applicant and Shri Patiwal did not belong to same circle when they worked as JTOs.

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4. There will not be any difficulty in accepting the claim for stepping up if the promotions were from the same seniority unit. The question which had arisen for consideration in these O.As. is as to whether the seniors and the juniors referred to, do not belong to the same seniority unit in the cadre of JTO, whether they are entitled to the benefit of stepping up.

5. To illustrate, the facts in O.A. 1412/93 can be referred to. While the applicants 1, 3 and 4 in this O.A. were the JTOs of A.P.Circle, applicant No.2 therein was JTO of Tamilnadu circle. The 1st applicant is claiming stepping up with reference to the pay of Shri S.V.Godse, the 2nd and 4th applicants are claiming stepping up with reference to the pay of Shri A.G.N.Pai, and the 3rd applicant is claiming stepping up with reference to the pay of Shri S.C. Patiwal. It is not in controversy that the regular promotions of the applicants No.1 is earlier to that of Shri Godse, and the regular promotions of applicants 2 and 4 are earlier to that of Shri Pai, and the regular promotion of 3rd applicant is earlier to that of Shri Patiwal, and the pay* of Shri Godse, Shri Pai and Shri Patiwal in the cadre of A.E. ^{is} more than that of Applicants 1, 2 and 4, and 3 respectively in the cadre of A.E.

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question as to whether the claim for stepping up is valid when the seniors and juniors had come from different seniority units was not discussed therein.

10. In para 3 of the judgement in O.A. 224/93 on the file of Bombay Bench, it is observed as under:

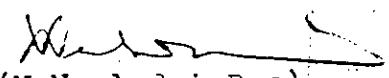
... In support of his argument he also cited the judgement of the Ernakulam Bench of the Tribunal in O.A. No. 1156/93 decided on 29-10-93 which says that the pay of the senior will be stepped up to the level of his junior subject to the condition that the senior and the junior are in the same scale, same cadre and same unit. According to Shri Masurkar, the applicant and Shri Ganjewar were not in the same unit or same circle and hence the question of stepping up does not arise."

11. In view of the importance, we feel that it is just and proper that the following point is placed before the Full Bench for consideration:

"Whether the senior can claim stepping up of pay with reference to the pay of his junior in different seniority units, ^{Cadre} before promotion and when the promotion was on the basis of integrated seniority list."

12. Place this order before the Hon'ble Chairman for necessary orders.

(R. Rangarajan)
Member/Admn.


(V. Neeladri Rao)
Vice-Chairman

mhb/

15 February, 1995.

8. One of the conditions that has to be satisfied for claiming stepping up is that the pay of the senior was equal or more than that of the junior in the lower category. To illustrate that, if 'A' is promoted earlier to 'B', and the pay of 'A' was equal or more than that of 'B' in the lower category, then 'A' will be entitled to stepping up provided the pay of the junior viz. 'B', is more than that of the senior viz. 'A' in the promoted category. The point which has arisen is as to whether there can be comparison of the pay in the lower category when they belong to different seniority units.

9. In O.A.No.224/93 on the file of Bombay Bench of the Tribunal, a contention was raised to the effect that the claim for stepping up has to be negatived if the promotions are from different seniority units. Though that point was formulated for consideration ~~of in this~~ the said O.A. it was not decided as the said O.A. was disposed of by order dated 13-4-94 on the basis of the facts therein and it had not become necessary to decide that point for disposal of that O.A. The Madras Bench of the Tribunal accepted the claim of A.Es. in Telecom. Department even when the dates of the O.A.s. 1800 and 1801 of 1992 claimed stepping up with reference to the pay of A.E. who was JTO in circle different from circles in which applicants therein worked as JTOs. The

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OAS. 1412/93, 127/94 & 129/94.

Place these orders before the Hon'ble Chairman
for necessary orders.

CERTIFIED TO BE TRUE COPY

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Date..... Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad

To

1. The Chairman and Ex-Officio Secretary to Govt. of India,
Ministry of Communications, Telecom Commission,
Sanchar Bhavan, New Delhi-1.
2. The Chief General Manager, Telecommunications,
Andhra Telecom, Circle, Hyderabad-1.
3. One copy to Mr.Y.Suryanayaga, Advocate, CAT.Hyd.
4. One copy to Mr.D.Madhava Reddy, Advocate, CAT.Hyd.
5. One copy to Mr.V.Bhimanna, Addl.CGSC.CAT.Hyd.
6. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

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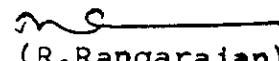
CAS.1412/93, 127/94 & 129/94.

I would like to add the following:

In the present OAs under discussion one of the main grounds taken for stepping up of pay is that the rejection of the request of the applicants for stepping up of pay is violative of Articles 14 & 16 of the Constitution of India. In the order of this Bench in OAs 974/93 & 1001/93 which were disposed of on 29.11.1994 the same point came up for consideration and it was held therein that 'when the applicants in those OAs belong to the same cadre and same unit and are in the same scale of pay and if the pay of the senior is not stepped up to that of junior in the promoted cadre, then the provisions of the Constitution quoted above will be attracted.' In these OAs as the senior and junior belong to different seniority units as JTOs whether it will be violative of the provisions of the Constitution if stepping up of pay is not allowed when promoted to the cadre of AEs is the main point for consideration.

2. Telecom Circle is a vast one and each State forms a separate Telecom Circle. The grade of JTOs are controlled circle-wise. It may not be feasible to transfer the JTOs from one circle to another on adhoc promotion for short periods due to various problems both for the administration and the adhoc promotees. While taking a decision problems of administration and individual employees should be taken note of so as to facilitate easy and quick implementation of the decisions at the field level. If these problems are not considered it may lead to lot of grievances from the staff and unnecessary litigations.

With the above observation I am in agreement with the Hon'ble V.C. for referring the issue to the Full Bench.


(R. Rangarajan)
Member (A)

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