

(19)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. No. 994/94.

Dt. of Decision : 02-11-95

S. Suryacharyulu

.. Applicant.

1. The General Manager,
Telecom District,
Vijayawada.
2. The Chief General Manager,
Telecommunication,
Door Sanchar Bhavan,
Nampally Station Road,
Hyderabad.
3. The Director General,
Telecommunication, Sanchar Bhavan,
New Delhi.
4. Y. Kesava Rao

.. Respondents.

Counsel for the Applicant : Mr. K. Venkateswara Rao
Counsel for the Respondents : Mr. N. V. Ramana, Addl. CGSC.

CORAM:

THE HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN
THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

O.A.NO.994/94.

JUDGMENT

Dt: 2.11.95

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

Heard Shri K.Venkateswara Rao, learned counsel for the applicant and Shri N.V.Ramana, learned standing counsel for the respondents.

2. The applicant is in the pay scale of Rs.1600-2660 in TOA Grade-III in SSA, Vijayawada. The relevant instructions laid down that number of posts in the pay scale of Rs.2000-3200 is equal to 10% of TOA Grade-III. It is not in controversy that there were 32 in TOA Grade-III in Vijayawada SSA by 10.8.94, the date on which this OA was filed, and hence 3 posts in the cadre of Rs.2000-3200 are available in SSA, Vijayawada.

3. Before 1.1.94, the posts in the grade of Rs.2000-3200 were circle-wise, while they were made SSA unit-wise from 1.1.94. Even TOA Grade-III are SSA unit-wise. The contention for the applicant is that R-4 who was promoted to the grade of Rs.2000-3200 prior to 1.1.94 was posted at Vijayawada, and if he is not transferred to SSA Unit, Rajahmundry, TOAs Grade-III in Vijayawada Unit will lose one post in the grade of Rs.2000-3200.

4. While it is asserted for the applicant that R-4 belongs to TOA Grade-III of Rajahmundry, the same is neither affirmed nor denied for R-1 to R-3. R-4 remained exparte. The letter No.1-21/92/NCG, dated 18.1.1994 which is as under:-

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"I am directed to say that consequent upon issuance of this office letter of even No. dated 8.6.93 regarding transfer liability of 10% BCR Grade IV posts at GSA level, some circles have sought clarifications as to how the promotions already made on Circle basis to Grade-IV posts will be adjusted/distributed among various SSAs. The matter has now been examined in detail and it has been decided that promotions already made on Circle basis prior to issuance of ~~that~~ ~~promotions~~ letter dated 8.6.93 may be distributed among various SSAs based on its existing justification and surplus Grade IV officials may be transferred notionally or otherwise if willing to SSAs with deficit Grade-IV officials with the condition that no further promotion to Grade IV will be made till ~~such~~ such time the post is vacated by incumbent on retirement etc. to maintain equilibrium between total strength of BCR Grade III posts and justified strength of 10% BCR Grade IV posts." (Annexure A-III),

~~is~~ ^{having} relied upon for the applicant has no ~~bar~~ for consideration of this OA.

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5. It cannot be stated that if one who was promoted to the pay scale of Rs.2000-3200 before 1.1.94 is continued in SSA Unit, other than the unit to which he belonged in TOA Grade-III Category, then TOA Grade-III employees in SSA Unit in which he is continued will lose one post in the higher grade i.e., in the pay scale of Rs.2000-3200, while TOAs Grade-III in the unit from which a promotion was made to the pay scale of Rs.2000-3200 and is posted in another unit, will have an additional post in the higher scale, if that person is not transferred to their unit. So, we feel that in such a case, it is necessary to transfer the employee in the pay scale of Rs.2000-3200 to SSA unit to which he belonged in TOA Grade-III category, if that transfer is not prejudicial to him. R-4 in fact made request for his transfer. Later he expressed his intention to withdraw it, if the said transfer is not treated as in public interest as can be seen from the copy of the letter dated 16.5.95 produced for the applicant. One will not get transfer allowance if the transfer is at his request, while he gets transfer allowance if the transfer is in public interest of service. Be that it may, the said letter discloses that R-4 himself is interested in going to Rajahmundry and hence ~~he~~ he is not affected if he is transferred to Rajahmundry. Hence we are not considering for disposal of this OA as to what equitable order has to be passed, if that employee in pay scale of Rs.2000-3200 seeks retention at the place at which he is working.

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6. As we fully accept the contention for the applicant in the circumstances referred to that the TOAs Grade-III in Vijayawada Unit are prejudiced due to the continuation of R-4 in Vijayawada Division, if in fact R-4 belongs to TOA Grade-III of Rajahmundry Unit, R-2 has to transfer R-4 to SSA, Rajahmundry and the concerned authority has to consider TOAs Grade-III in Vijayawada Unit for promotion to the post carrying the pay scale of Rs.2000-3200 in the consequential vacancy due to the transfer of R-4. The said transfer and the promotion have to be made by 15.12.1995 failing which the TOA Grade-III of Vijayawada Unit who has to be promoted, has to be given promotion with effect from 16.12.1995 to the post in the pay scale of Rs.2000-3200 in the consequential vacancy referred to above.

7. The OA is ordered accordingly. No costs.

CERTIFIED TO BE TRUE COPY
Date.....
Court Officer
Central Administrative Tribunal
Hyderabad Bench
Hyderabad

- To
1. The General Manager, Telecom Dist. Vijayawada.
 2. The Chief General Manager, Telecommunication, Door Sanchar Bhavan, Nampally Station Road, Hyderabad.
 3. The Director General, Telecommunication, Sanchar Bhavan, New Delhi.
 4. One copy to Mr. N.V.Ramana, Addl.CGSC.CAT.Hyd.
 5. One copy to Mr.K.VenkateswarRao, Advocate, CAT.Hyd.
 6. One copy to Library, CAT.Hyd.
 7. One spare copy.

pvm

TTC
N.V.

Returned

Material papers
are to be
submitted.

~~21/12/95~~

21/12/95

in daytime

Objection complies
with Ltr

22/1/96

for N.V. Ramana
Advt. 2,



Rule provision
to be noted.

Review Petn

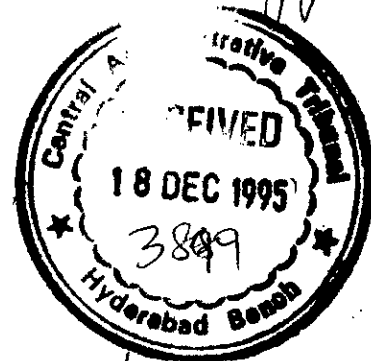
In the C.A.T.
Hyd Bench

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OA 994/95
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Review Applicant



Filed by
N.V. Ramana

A.C.U.

Copy filed
21/1/96

Case Number	OA 994/95
Date of judgment	2/1/96
Copy made ready on	20/1/96
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