

68

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.1224/94

decided on : 14-12-94

Between

1. SVRS Sarma
2. GS Sastry
3. P. Ramanarayana Chetty
4. N. Nagaiah
5. S.BG@ Prasada Rao : Applicants

and

1. Union of India, rep. by
Chairman, Telecom Commissioner
Min. of Communications
Sanchar Bhavan, New Delhi

2. The Director General
Telecommunications
Dept. of Telecommunications
New Delhi

3. Chief General Manager
Telecommunications AP
Hyderabad

4. Pradhan Biswanath
Deputy TDE, NETP Circle
Guwahati, Assam State : Respondents

Counsel for the applicants : G. Bikshapathi, Advocate

Counsel for the respondents : N.R. Devaraj, SC for Central
Government

CORAM

HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. R. RANGARAJAN, MEMBER(ADMN.)

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

J U D G E M E N T

Heard Shri G. Bikshapathy, learned counsel for the applicant and also Shri N.R. Sr. Devaraj, learned/standing counsel for the Respondents.

2. This OA was filed praying for declaration that the action of the Respondents 1 to 3 in not granting notional promotion and in not re-fixing the pay of the applicant on par with that of Shri Pradhan Biswanath is illegal, arbitrary and for consequential direction that the applicants are entitled for re-fixation of seniority and notional promotion with retrospective effect and also for re-fixation of the pay of the applicant on par with that of Shri Pradhan Biswanath with effect from the respective dates of promotion of the applicants as Asst. Engineers with arrears of pay and allowances and other benefits in terms of the judgement of the Supreme Court in 1994 SCC (L&S) 964 (The Telecommunication Engineering Service Association (India) and Another) Vs. Union of India & Others)

3. The applicants herein, Shri Pradhan Biswanath and some others were recruited as Engineering Supervisors in Telecom. and the post of Engineering Supervisor was designated as Junior Engineer. The ranking given to Shri Pradhan Biswanath at the time of recruitment as Engineering Supervisor was higher to the rankings given to these applicants. The avenue of promotion from Junior Engineer is to the post of Asst. Engineer (A.E.). The Junior Engineers who passed the qualifying



test were eligible for promotion as Asst. Engineers till the recruitment rule was amended in 1983.

Para 206 of P&T Manual envisages that the ~~order date~~ of passing ~~of~~ the qualifying departmental examination is the basis, and not the ranking given at the time of recruitment as Junior Engineer, for consideration for promotion to the post of Asst. Engineer. But inspite of it, Shri P. Biswanath who passed the qualifying examination (he passed the qualifying examination in May, 1975), later to the dates on which the applicant and others passed the qualifying examination was promoted as Asst. Engineer in 1977 and the applicants were promoted as Asst. Engineers later.

4. Shri Paramananda Lal & Shri Briz Mohan who passed the qualifying test earlier to the date on which their senior passed the qualifying test, challenged the promotion of that senior as A.E before they were considered for promotion of Asst. Engineers by filing ~~of~~ writ petitions ^{in Allahabad High Court} 27391 & 2652 of 1991 in 1981. They relied upon para 206 of the P&T Manual to contend that the seniority at the time of recruitment is not the criterion and the seniority on the basis of date of passing the qualifying examination is the criterion for consideration for promotion as Asst. Engineer. The said judgement was allowed by the Allahabad High Court on 20-2-1985.

5. It may be noted that ~~both~~ the posts of ~~Junior Engineer and~~ Asst. Engineer, Telecom. are of All India seniority. Various Junior Engineers Telecom. approached the various benches of the C.A.T. seeking similar relief. The applicants herein and ~~the~~ some other Junior Engineers who

passed the qualifying examination earlier to the date on which Shri Pradhan Biswanath passed the ^{in this bench} qualifying examination filed OA 162/92 seeking similar relief. By the date of filing of the said OA, the Principal Bench disposed OA 1599/87 on 7-6-91. The said OA was filed by the Junior Engineers claiming ~~seniority~~ ^{similar relief}. Hence even even at the admission stage, the OA 162/92 was disposed of by the following order:

"In the result, we direct the respondents to extend the benefit of the judgements delivered by the C.A.T. on 7-6-91 in OA 1599/87 and batch to the Applicants herein also. The applicants shall be deemed to have been promoted with effect from the date prior to the date of promotion of any person who passed departmental examination subsequent to the applicants and their seniority to be revised in IES Group 'B' cadre. The applicant shall also be entitled to re-fixation of the pay with effect from the said date. This order shall be implemented within six months from the date of receipt of the order. The application is thus disposed of at the admission stage itself with no order as to costs."

6. Telecom. Engineers services Association & ^{S.C.P.} another filed Review application against the judgement dated 29-6-92 passed by the Principal Bench in Review Petition No.195/92 in OA 2667/91. Many other Civil Appeals were also filed before the Supreme Court against the orders of the various benches of the C.A.T. The point which had arisen for consideration in the above SLP ^{and C.A.S} is as to whether the Junior Engineers in whose favour the orders were passed in accordance with the judgement of the

(G.R)

with the judgement of the Allahabad High Court are entitled to the backwages from the respective dates of notional promotion. The above SLPs were disposed of by the Apex Court on 13-5-94 and it was published in 1994 SCC (L&S) 964 (The Telecommunication Engineering Service Association (India) And Another Vs. Union of India and Another)

7. The decision of the Apex Court therein is that the Junior Engineers are entitled to the notional promotion from the date on which Junior Engineer who passed the ~~qualifying~~ examination later was promoted as Asst. Engineer and they are entitled for fixation of the pay in the promotional cadre on the respective dates of notional promotion, and they are entitled to the backwages i.e. monetary benefits from the respective dates on which ~~they~~ they actually assumed the promotional posts.

8. In view of the above judgement of the Supreme Court, the following directions are given.

9. If any Junior Engineer ^{was} promoted as Asst. Engineer earlier to the dates of promotion of the applicant as Asst. Engineer, and if that Junior Engineer passed the ~~qualifying~~ examination later to the date on which these applicants passed the qualifying examination, then these applicants have to be given notional promotion from the date on which such junior Engineer was promoted as Asst. ~~Engineer~~ and the pay of the applicants in the post of Asst. ~~Engineer~~ has to be fixed on the ^{date of} notional promotion.

15

10. The monetary benefit on that basis has to be given from the respective dates on which these applicants ~~assumed the promotional~~ become eligible to the post of Asst.

Engineers.

11. The OA is ordered accordingly. No costs. /

Me

(R. RANGARAJAN)
Member (Admn.)

Ward
(V. NEELADRI RAO)
Vice-Chairman

NS

Dated the 14.12.94
Open court dictation

Deputy Registrar(A)CC

24/12/94

To

1. The Chairman, Telecom Commissioner, Ministry of Communications, Sanchar Bhavan, Union of India, New Delhi.
2. The Director General, Telecommunications, Dept. of Telecommunications, New Delhi.
3. The Chief General Manager, Telecommunications, A.P. Hyderabad.
4. The copy to Mr. G. Bikshapati, Advocate, CAT. Hyd.
5. One copy to Mr. N. R. Devraj, Sr. CGSC. CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

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pb 8000 21/12/94

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APPROVED BY

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: 14-12-1994

ORDER/JUDGEMTN:

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

in

O.A.No. 1224/94.

T.A.No. (w.p.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected

No order as to costs.

No spare copy

See 21/11/94

