

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH :
AT HYDERABAD

DA.32/94, 1253/93;
1030/93, 947/93 & 931/93 date of decision: 5-12-'94

Between:

1. Raja Hagerath	: Applicant in DA.32/94
2. K. Bepaiyah	: Applicant in DA.1253/93
3. G. Haragopal	: Applicant in DA.1030/93
4. G. Chandrasekhar Rao	: Applicant in DA.947/93
5. P. V. Padmanabha Serme	: Applicant in DA.931/93

And

1. Union of India, Rep. by The Secretary to UOI Min. of Communications, New Delhi	
2. The Chairman Telecom Commission Sanchay Bhawan, New Delhi.	
3. Asst. Director General (TE) Min. of Communications, Sanchay Bhawan, New Delhi.	
4. Chief General Manager, Telecommunications AP Circle, Hyderabad 500 001.	: Respondents in all the OAs

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

Counsel for the respondents : V. Bhimanna, SC for Central
in DA.32/94; 1253/93; 947/93 Government.

Counsel for the respondents : N.R. Devaraj, SC for Central
in DA.1030/93 Government

Counsel for the respondents : N.V. Raghava Reddy, SC for
in DA.931/93 Central Government.

CORAM:

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

HON. MR. R. RANGARAJAN MEMBER (ADMIN.)

DA.No:32/94; 1253/93; 1030/93;
947/93 & 931/93.

Date: 5.12.'94.

JUDGMENT

(AS HON'BLE SRI R.RANGARAJAN, MEMBER (ADMINISTRATIVE))

Heard Sri V. Venkateswara Rao, learned Counsel for
the applicants and Sri V. Bhimanna, learned Standing Counsel
for respondents in all the OAs.

2. As the same point has arisen for consideration, these OAs can be conveniently disposed of by a common order.

3. All these applicants joined service as Telegraphists and then promoted as Traffic Supervisor which was All India seniority unit till 1979, Grade of Traffic Supervisor was made circle unit from 1979. Thus those who are working as Traffic Supervisors by 1979 were required to make options for allocation to the various circle units and accordingly they were allotted to circle units.

4. Even before the grade of Traffic Supervisor was made circle unit, Shri Baleswara Singh and Sri P. Panjara were promoted as STTs Group-B on adhoc basis. Allegations for these applicants that they were not offered adhoc promotion by the date of promotion of Sri Baleswara Singh, and Sri P. Panjara as STT Group-B on adhoc basis was not denied.

5. The post of Traffic Supervisor was re-designated as ASTT Group 'C' with effect from 1984. Avenue for promotion from Traffic Supervisor/ASTT Group 'C' is to STT Group 'B' which is All India seniority unit from the beginning. Even after Traffic Supervisor/ASTT Group 'C' was made circle unit, all the officers in the said cadre in all the units of all the circles who are eligible may volunteer for consideration for promotion to the grade of STT Group-B.

6. While the applicants in OAs 32/94 & 1253/93 were regularly promoted as STT Group-B even prior to the date of the regular promotion of their junior Sri Panjara, the applicants in other OAs 103/93, 947/93 & 931/93 were regularly promoted of their junior Sri Baleswara Singh as STT Group-B.

7. The allegations for the applicants in OAs 32/94 and 1253/93 that their pay was more/equal to the pay of Sri P. Panjara in the cadre of Traffic Supervisor

and the applicants in other three OAs viz., 1030/93, 947/93 & 931/93 was more, equal to the pay of Sri Baleswara Singh in the cadre of Traffic Supervisor were not denied. Thus, it is a case where the pay of the respective applicants was either more or equal to the pay of their respective junior Sri P. Panjiera/Sri Baleswara Singh in the cadre of Traffic Supervisor and their pay in the cadre of STT Group-B is less than the pay of their respective junior Sri Panjiera/Baleswara Singh as on the date of regular promotion of the latter to the post of STT Group-B. An anomaly has arisen as Sri Panjiera/Sri Baleswara Singh were promoted as STT Group-B on adhoc basis and their period of service as STT Group-B when they worked on adhoc basis in that cadre was being taken into consideration for fixing their pay on the regular promotion as STT Group-B.

8. It is true that by the date of promotion of these applicants as STT Group-B, their respective juniors were not in the same circle while they were working in the grade of Traffic Supervisors/ASTT Group-C. But it is a case where Sri P. Panjiera and Sri Baleswara Singh were promoted on adhoc basis to STT Group-B even before the grade of Traffic Supervisor was made circle unit. Thus, it is a case where the applicants were not offered promotion to STT Group-B when it was offered on adhoc basis to Sri Baleswara Singh and to Sri Panjiera. Then the question of denial of the offer of promotion when it was on adhoc basis on the part of the applicants does not arise. The question as to whether the benefit of stepping up has to be given to a senior if the adhoc promotion was given to junior after the lower post was made circle unit does not arise for consideration for disposal of these OAs, and hence we do not deal with the same for disposal of these OAs.

9. We held in OA 974/93 and 1001/93 that if stepping up is not going to be allowed in the circumstances referred to herein which are similar in the OAs 974/93 & 1001/93, the same will be violative of Article 14 of the Constitution of India.

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10. For the reasons stated ther in, we hold that the applicants in UAs 32/94 and 1253/93 have to be given the pay equal to the pay of Sri P. Panjara as on the date of his regular promotion to STI Group-B on notional basis. The applicants in other OAs viz., 1030/93, 947/93 and 931/93 have to be given the pay equal to the pay of Sri Baleswara Singh as on the date of his regular promotion to STI Group-B on notional basis. We held in OAs 974/93 and 1001/93 that the applicants therein should be given the monetary benefit from 3 years prior to the date of filing of the respective UA. For the reasons stated herein, we find that the applicants herein also have to be given the monetary benefit from 3 years prior to the date of filing of the respective UA.

10. These OAs are disposed of accordingly. No costs.

CERTIFIED TO BE TRUE COPY
Sd/- xx xx xx xx xx x
Dt: 15/12/1994

COURT Officer, CENTRAL
ADMINISTRATIVE TRIBUNAL :
HYDERABAD BENCH : HYD*BAD

** True copy **

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT :: HYDERABAD

C.P.NO. 117 OF 1995

in

O.A.NO. 1253 OF 1993

Between:

K.Bapaiah .. Petitioner/
Applicant

And

Sri.R.K.Takkar, Secretary,
Ministry of Communications, Govt.
of India, New Delhi and others .. Respondents/
Respondents

MAFFIDAB++

K.Bapaiah, S/o.Siva Ramakrishnaiah, aged about 48
years, Occupation: Superintendent, Teletraffice Division,

of Telecommunications, Warangal, R/o.Warangal,
do hereby solemnly affirm and state on oath as follows:

1. I am the Petitioner herein as such I am
acquainted with the facts of the case.

2. I respectfully submit that I filed the above O.A
claiming the ~~recovery~~ of my dues from my junior
my Junior Sri.P.Panjiara with effect from the date on which
the anomaly arose. Similar O.As were filed by many others
~~including~~

to dispose of the O.As by its Judgment dated 5-12-1994 direc-
~~ting~~ ~~the~~ ~~recovery~~ in the ~~name~~ of mine on notional
basis on par with my junior Sri.P.Panjiara and for payment
of monetary benefits for 3 years prior to the date of filing
the O.As. The copy of the Judgment was made ready on 16.12.94
and the same was despatched to the Respondents thereafter. I

also submitted a representation to the 4th Respondent enclosing a copy of the Judgment and requesting for implementation of the same. Inspite of receiving copy of the Judgment and the representation of mine, the Respondents have not taken any action so far towards implementation of the Judgment by this Hon'ble Tribunal. In identical matters the Judgments rendered by the Hon'ble Central Administrative Tribunal, Bangalore were implemented. The Hon'ble Bench of Central Administrative Tribunal at Bomay and Earnakulam also delivered the judgments on the similar lines. All the judgments have become final since matters were not carried in appeal to the Hon'ble Supreme Court. ~~in the~~ The Respondents are bound to implement the Judgments since the Principle was upheld by the Hon'ble Supreme Court in the SLPs filed by the other Departments. The Judgments of the Hon'ble Central Administrative Tribunal, Bangalore were implemented by duly obtaining an undertaking from the applicants therein that in the event of the Supreme Court setting aside the Judgment in SLPs that may be filed, they would refund the amount received by them in implementation of the Judgment. On the same lines the Judgments delivered by this Hon'ble Tribunal also in identical matters can be implemented by the Respondents. The Petitioners in O.A Nos. 931/93, 1027/93, 1252/93 and 1579/93 from same batch filed C.P.Nos. 32/95, 34/95, 31/95 and 35/95 and the same were ordered on 14.9.95 directing the Respondents to comply directions obtaining undertakings from them. Similar benefit can be extended to me also. But, the Respondents are arbitrarily

and illegally denying the same on the ground that the each Applicant should obtain similar orders by filing C.Ps.

3. Denial of reliefs granted by this Hon'ble Tribunal in its Judgment dated 5.12.1994 by the Respondents constitute discrimination forbidden by the Provisions of the Article 14 and 16 of the Constitution of India in as much as I am herein is similarly situated and the claim is identical to that of the applicants in Bangalore Bench's Judgment. By such an unequal treatment the Respondents have discriminated between the ~~and~~ equals. Resultantly juniors are drawing ~~higher pay~~ to have their pay fixed on par with their juniors the same is denied to them evenafter the declaration by this Hon'ble ~~Tribunal~~. In the circumstances if the Respondents are not directed to implement the Judgment dated 5.12.1994 I would suffer irreparable loss and damage.

4. Non implementation of the Judgment dated 5.12.1994 in O.A.No.1253/93 of this Hon'ble Tribunal is wilful and deliberate. It is not open to the Authorities to delay implementation of the judgment beyond the period of six months from the date of the Judgment. By non implementation of the ~~same~~ Judgment dated 5.12.1994 even after the order dated 6.4.1994 of this Hon'ble Tribunal the Respondents have shown scant regard to the orders of this Hon'ble Tribunal which the court of Law. The Respondents are guilty of grave and wilful disobedience and exfeciie contempt of this Hon'ble

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Tribunal, for which they are liable for punishment under Provisions of Contempts of Courts Act, 1972. If the contempt of the court committed by the Respondents is not taken cognizance of the Respondents would view the Hon'ble Tribunal very lightly and it sets in a very bad example to a common man. The Respondents cannot be permitted to interfere with the course of justice by non implementation of the orders passed by the courts of Law. Even the number of representations submitted by me and others similarly situated have not been considered. Their disobedience is wilful and deliberate.

5. Therefore, it is prayed that this Hon'ble Tribunal may be pleased to take cognizance of the contempt of court against the Respondents for their wilful and deliberate disobedience of the orders of this Hon'ble Tribunal dated 5.12.1994 in O.A.No.1253/93 and punish them according to Law and pass any other order or orders as is deemed fit, proper, necessary and expedient in the circumstances of the case.

Sworn and signed before
me on this the 28th day
September, 1995.

A. R. S. Gopalaswamy
Advocate
Hyderabad

X K. Bapuji
(K. BAPAIAH)

DEPONENT