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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A. NO. 127/ 1994

Date of Decision :

31st October 1997

BETWEEN:

P. Krupachary

.. Applicant

AND

1. Telecom Commission, rep. by its
Chairman/Ex-Officio Secretary
to Government of India,
Ministry of Communications,
Sanchar Bhavan,
New Delhi - 110 001.

1. The Chief General Manager,
Telecommunications,
Andhra Pradesh Circle,
Hyderabad - 500 001. .. Respondents

Counsel for the applicant: Mr. D. Madhava Reddy

Counsel for the Respondent: Mr. V. Bhimanna

CORAM:

THE HON'BLE SRI H. RAJENDRA PRASAD: MEMBER (ADMN.)

THE HON'BLE SRI B.S. JAI PARAMESHWAR: MEMBER (JUDL.)

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ORDER

(Per Hon'ble Sri B.S. Jai Parameshwar: Member (Jud1.)

Heard Sri Phaniraj for Sri Naveen Rao, Learned Counsel for the applicant and Sri V. Bhimanna, Learned Standing Counsel for the Respondents.

This is an application under Section 19 of the Administrative Tribunals Act 1985. The application was filed on 7.1.1994.

The applicant is presently working in Telecom Engineering Services, Group-B Cadre. He was initially recruited in JE cadre during 1965. Comparing his service particulars with that of his junior Sri R.V. Kulkarni, who was recruited as JE during 1969, the applicant submits that he is drawing pay less than that of his junior.

Hence this OA praying for stepping of his pay on par with Sri R.V. Kulkarni.

It is submitted that the circle unit is the unit for the cadre of junior engineers. It is submitted that a Seniority list of Junior Engineers is maintained in the circle. Their next promotion is to the cadre of TEs Group-B Cadres. A list of eligible candidates for the promotional post will be prepared on All India basis.

It is submitted that due to delay in selection, some junior engineers were promoted on ad hoc basis pending regular selection. However, in case of an ad hoc promotee continued beyond 12 months then he earned an annual increment in AE Cadre.

It is submitted that Sri R.V. Kulkarni was promoted as Assistant Engineer on ad hoc basis with effect from 19.2.79 and was reverted as JE with effect from 6.4.84 and was again promoted as AE on ad hoc basis with effect from 22.7.81. It is submitted that, at the time of his reversion he was drawing a pay of Rs.710/-. Sri R.V. Kulkarni was given ad hoc promotion as AE for the second time. Then his pay was fixed at Rs.710/- p.m. Subsequently, he was regularly promoted during December, 1987. It is stated

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that on account of ad hoc promotion an anomalous situation was created when his junior began to draw more salary than him. Hence he has filed this OA for stepping up of his pay on par with his junior Sri R.V. Kulkarni.

A counter has been filed by the respondents, stating that Sri R.V. Kulkarni was from Bombay Circle that the applicant was working in the Andhra Pradesh Circle that the conditions mentioned in FR 22 I (a)(i)(old FR 22 C) are not attracted to the facts of this case, that there is no need to step up the pay of the applicant on par with Sri R.V. Kulkarni and that the OA be dismissed.

The point which arises for consideration in this OA is as under:-

Whether a senior can claim step up of pay with reference to the pay of his junior when they work in different units before promotion and that the promotion was on the basis of the integrated seniority list.

Since various Benches of this Tribunal in the country had taken divergent views on the above point, the question was referred to the Full Bench of this Tribunal and the Full Bench answered the above points in its judgment/order on 20th November, 1996 in the following words:

" (a) Stepping up can be granted only where there is a provision in law in that behalf, and only in accordance with that; and

(b) a claim for stepping up can be made only on the basis of a legal right and not on pervasive notions of equity or equality; unrelated to the context of statutory law."

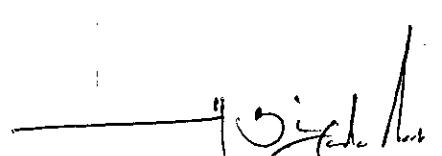
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Recently the Hon'ble Supreme Court of India in C.A. Nos. 6277 of 1997 and batch has held that a junior who has been put in higher fixation of pay due to his ad hoc promotion earlier to his regular promotion will not give a right to the seniors to demand for the stepping up of their pay.

In view of the above legal position, we feel that the applicants are not entitled to any of the reliefs claimed in the O.A. Therefore the O.A. is liable to be dismissed.

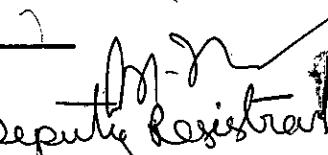
Accordingly the O.A. is dismissed. No order as to costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDICIAL)


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

Dated the 31st October 1997

KSM


Deputy Registrar

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I Court.

TYPED BY:

CHECKED BY:

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APPROVED BY:

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE,
VICE-CHAIRMAN

And

THE HON'BLE MR. H. RAJENDRA PRASAD : M(A)

The Hon'ble Mr. B. S. Jainparameswar : M (J)

DATED. 31/10/97.

RECORDED/JOURNALIST.

N.L.,/R.L.,/C.A. NO. .

Q. No. 127/94

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.

केन्द्रीय प्रशासनिक बोर्डिंगरण
Central Administrative Tribunal

DESPATCH

10 NOV 1997

हैदराबाद न्यायालय
HYDERABAD BENCH