

3. There are 3 applicants in this OA. They are presently working in TEs Group-B Cadre. Their grievance is that Sri R.V. Kulkarni who is junior to him is drawing more pay compared to them. They have given the particulars of their service and that of Sri R.V. Kulkarni in page-2 of the O.A.

4. It is stated that post of Junior Engineer is a Circle post, that the seniority of Junior Engineers is maintained in the circle, that their next promotional post is Assistant Engineer. They submit that they are governed by Telecom Engineering Services (Group-B) recruitment Rules 1981.

5. They submit that due to delay in promotion certain junior engineers were promoted on ad hoc basis that likewise Sri R.V. Kulkarni was promoted on ad hoc post on 19.2.79 that he was reverted from the said ad hoc promotion with effect from 6.4.81 and was again promoted as Assistant Engineer with effect from 22.7.81 that at the time of his reversion he was drawing a pay of Rs.710/- that with his promotion on ad hoc basis for the second time with effect from 22.7.81 his pay was fixed on Rs.710/- that therefore his regular promotion is fixed taking into consideration his earlier adhoc service, that as on 1.6.93 he was drawing a basic pay of Rs.303/- that even though they are senior to him were drawing less pay compared to Sri R.V. Kulkarni. Thus they have filed this OA for stepping up of their pay on par with that of Sri R.V. Kulkarni.

6. No counter has been filed on behalf of the Respondents. However, Sri V. Bhimanna, the learned counsel for the respondents contended that Sri R.V. Kulkarni was from Bombay Circle that he was working in a different seniority unit that conditions laid down in FR 22 I (A) i (old FR 22 C) have not been complied in the instant case that there is no occasion for stepping up of the pay of the Applicant because Sri R.V. Kulkarni was from a different circle and that the OA be dismissed.

7. The point that arises for our consideration 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.

8. Since various Benches of this Tribunal in the country above had taken divergent views on the above point, the question was referred to the Full Bench of the Tribunal and the Full Bench answered the above point 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. "

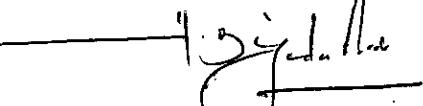
9. Recently the Hon'ble Supreme Court of India on 23.9.1997 in C.A. Nos. 6277 of 1997 and batch, has held that a junior who has been put in higher fixation of pay due to his ad hoc promotion earlier to his regular promotion will not give a right to the seniors to demand for the stepping up of their pay.

10. 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 OA is liable to be dismissed.

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


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

31.10.97


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

Dated the 31.10.97

7
10/10/97
I Court.

TYPED BY:

CHECKED BY:

CO. of C.R.L.

APPROVED BY:

THE HON'BLE 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. Diparampalam, M(Y).

DATED: - 31/10/97

~~Q. JUDGMENT.~~

M.L., / RA., / C.R. No. .

in

Case No. 1283/94

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 अधिकार अधिकार
Central Administrative Tribunal
DESPATCH

10 NOV 1997

हृदयवाद न्यायपीठ
HYDERABAD BENCH