

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A. NO. 129/1994

Date of Decision:

31.5.1997

BETWEEN:

1. D. Venkat Reddy

2. P. Lakshminarayana

.. 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.

2. The Chief General Manager,
Telecommunications,
Andhra Telecom Circle,
Hyderabad - 500 001.

.. Respondents

Counsel for the applicant: Mr. D. Madhava Reddy

Counsel for the Respondents: Mr. V. Bhimanna

CORAM:

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

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

ORDER

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

1 Heard Mr. Phaniraj for Sri D. Madhava Reddy for
the applicant and Sri V. Bhimanna for the Respondents.

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

3. There are 2 applicants in this O.A. They are presently working in the Telecom Engineering Services Group-B Cadre. They feel aggrieved because their junior Sri R.V. Kulkarni is drawing more pay, ^{compared} to them in the TEs Group-B ^{detailed} Cadre. They have their service particulars and that of Sri R.V. Kulkarni in page-2 of the O.A.

4. The post of Junior Engineer is a circle post. The seniority list is maintained in every circle. Their next promotional post is the post of Assistant Engineer(AE). They are Governed by ^{The} Telecom Engineering Service Group-B recruitment Rules 1981.

5. They submit that due to delay in promotion to the cadre of Assistant Engineers ~~for~~ some of the Junior Engineers were promoted on adhoc basis, that an ad hoc promotee if continued beyond 12 months ^{or an} earned annual increment, that thus Sri R.V. Kulkarni was promoted on ad hoc basis on 19.2.1979 ~~occasion~~ that he was reverted with effect from 6.4.1981, that again Sri R.V. Kulkarni was promoted with effect from 22.4.81 that at the time of his reversion Sri R.V. Kulkarni was drawing a pay of Rs.710/- that ^{on} his promotion on ad hoc basis for the second occasion, his pay was fixed at Rs.710/- though as on 21.7.81 his basic pay was Rs.530/- that thus promoting Junior Engineer on ad hoc basis created an anomalous situation whereby certain juniors drew more pay than their seniors and that thus they are drawing less pay and allowances ^{compared} to Sri R.V. Kulkarni.

6. Hence they have filed this OA for stepping up of their pay on par with that of Sri R.V. Kulkarni.

7. The Respondents have filed counter stating that the applicant, belong to AP. Circle, that Sri R.V. Kulkarni for whom ^a reference ^{has} been made in the OA belongs to Bombay Circle that conditions indicated in FR 22 I (a) i (old FR 22-C) are

not attracted to the facts of this case. That there is no reason to step up the pay of the applicants ^{par with} on that of Sri R.V. Kulkarni and that the O.A. be dismissed.

8. The point that arises for consideration in this O.A. is, 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.

9. 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 point in its judgement/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

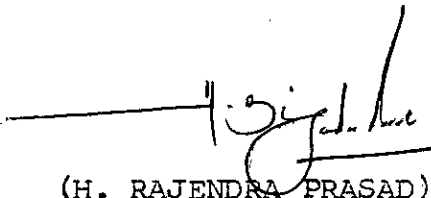
(b) a claim for stepping up can be made only on the basis of a legal right and not on pervasive notions of equity or equality; unrelated to the content of statutory law."

10. Recently, the Hon'ble Supreme Court of India On 23.9.97 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.

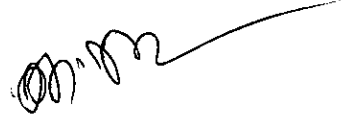
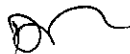
11. In view of the above legal position, we feel that the applicants are not entitled to any of the reliefs claimed in the O.A. Therefore the O.A. is liable to be dismissed.

12. 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 1995

KSM

1. The Chairman/Ex-Officio Secretary
to Govt. of India,
Telecom Commission, Min. of Communications,
Sanchar Bhavan, New Delhi-1.
2. The Chief General Manager,
Telecommunications, Andhra Telecom Circle,
Hyderabad.
3. One copy to Mr. D. Madhava Reddy, Advocate, CAT. Hyd.
4. One copy to Mr. V. Bhimanna, Addl. C.E.C. CAT. Hyd.
5. One copy to HBSJP(J), CAT. Hyd.
6. One copy to D.R. (A) CAT. Hyd.
7. One spare copy.

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11/11/97 (7)

I Court.

TYPED BY:

CHECKED BY:

COMPARED BY:

APPROVED BY:

IN 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. Jaiparameswar, MCD

DATED:- 31/10/97

ORDER/JUDGMENT.

M.A.,/RA.,/C-A.No..

in

O.A.No.. 129/94.

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 अधिकरण
Central Administrative Tribunal

बेस/DESPATCH

10 NOV 1997

हैदराबाद न्यायपीठ
HYDERABAD BENCH