

(48)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD

ORIGINAL APPLICATION NO.1499 of 1994

DATE OF JUDGEMENT: 27 October, 1997

BETWEEN:

1. E.BHASKAR
2. P.Akbar Basha,
3. K.Jayamma,
4. G.Maheswara Rao,
5. K.Tirumala Rao,
6. S.Lalithamma,
7. S.Murtuza Saheb,
8. RLN singh,
9. A.Prabhavati,
11. K.A.Sugūnammā,
12. G.Annapurna,
13. S.Khadar Vali,
14. P.Hussainappa,
15. G.Papaiah,
16. C.Sunkanna,
18. J.Parimala,
19. CV Ramana Murthy,
20. B.Naga Sri Ramulu,
21. G.Chandra Sekhar,
22. S.Nagabhushanam,
23. D.Veeranna,
24. N.Penkhudawamy,
26. JV Ramana,
27. S.Basheer Ahmed,
28. S.V.Ramana,
29. G.Kambagiri,
30. L.Vijay Kumar,
31. V.Rajyalakshmi.

.. APPLICANTS

AND

1. Union of India represented by its  
Secretary, Ministry of Communications,  
Department of Telecommunications,  
New Delhi,
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2. The Chief General Manager,  
Telecommunications,  
Hyderabad 500001,
3. The General Manager,  
Telecommunications,  
Hyderabad Area, CTO compound,  
Secunderabad, .
4. The Telecom District Manager,  
Bhupal Complex,  
Kurnool.

.. RESPONDENTS.

COUNSEL FOR THE APPLICANTS: Mr.BSA SATYANARAYANA

COUNSEL FOR THE RESPONDENTS: Mr.V.RAJESWARA RAO, Addl.CGSC

CORAM:

HON'BLE SHRI R. RANGARAJAN, MEMBER (ADMN.)  
HON'BLE SHRI B.S.JAI PARAMESHWAR, MEMBER (JUDL.)

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ORDER (PER HON'BLE SHRI R. RANGARAJAN, MEMBER (ADMN.))

Heard Mr.BSA Satyanarayana, learned counsel for  
the applicants and Mr.V.Rajeswara Rao, learned standing

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2. There are 31 applicants in this OA. The applicants 1 to 21 were recruited as Short Duty Telephone Operators (SDTOs for short) under R-4. The applicants 22 to 31 were recruited as SDTOs. It is stated that the applicants 1 to 21 though were working from December 1980 as SDTOs, they were treated as RTPs even without training from 23.3.82 by the order dated 23.3.82 of R-4. The applicants 22 to 31 were recruited as SDTOs in the year 1982 and were sent for training by the letter dated 30.1.84. All the applicants submit that all of them worked as SDTOs for the periods ranging from 2 to 3 years and as RTPTOs for the period ranging from 2 to 5 years. They were sent for training by the orders dated

(Annexures A-3, A-5 and A-6). They were appointed as regular Telephone Operators during the period 1983-87 as per annexures A-7, A-8, A-9, A-9(a), A-10, A-11 and A-12.

They submit that the service rendered by them as SDTOs and RTPs is eligible to be treated as regular service for all purposes with all consequential benefits because they were working on par with the regular Telephone Operators during the period prior to 1983. The respondents refused to treat the service rendered by the applicants as SDTOs and RTPs when they approached them for regularisation.

3. The applicants further submit that their request delivered by several Benches of this Tribunal including this Bench.

4. This OA is filed praying for a direction to the respondents 2, 3 and 4 to reckon their service as SDTOs and

RTPTOs as regular service in the cadre of TOs for all purposes with all consequential benefits such as annual increments, leave, Productivity Linked Bonus from the date of their entry in the Department.

5. A reply has been filed in this OA. Though the Ernakulam Bench of this Tribunal had directed that the applicants before ~~them~~<sup>it</sup> who had been rendered service for 8 hours a day continuously and on completion of one year of such service should be deemed to have attained temporary status and all the periods of 8 hours a day be counted for qualifying service for pension and to extend all the other benefits which are available to the Casual Mazdoors after attaining the temporary status, the Department had filed an SLP before the Apex Court vide Civil Appeal Nos.80-123 of 1995, SLP(C) No.17422/95, CA Nos.126/96, 1254-25/9, 127-96 and 131/96. The Apex Court allowed the appeals and set-aside the directions of the Ernakulam Bench. In view of the above, the applicants are not eligible to get the relief as prayed for in this OA.

SLP(C) No.17422/95 and Civil Appeal Nos.126/96, 124-25/96, 127-130/96 and 131/96 decided on 1.8.97. The relevant is reproduced below:-

different. In the first place, the very scheme which constituted RTPs provided for their absorption as regular employees. With this in mind, they were

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also given the same training as regular employees. They were required in the meantime, to carry out short-term duties or to handle peak hour traffic on an hourly wage basis. However, there was clear assurance in the scheme that they would be accommodated in future vacancies as regular employees in the manner set out in the scheme. We are informed that there was a backlog in absorption because of a ban on recruitment during certain years. All the RTP employees have been absorbed as regular employees by 1990. Some of the respondents who are before us have been absorbed much earlier, in the year 1988. Therefore, they are in a much better position than casual labourers and are now enjoying all the benefits of regular employment.

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who have been regularly absorbed in the year 1988 have been given the benefit of counting their service as RTPs for the for the departmental examination. The relevant rule provides that the candidates "must have put in at least 5 one or more eligible cadres" before they can appear for the examination. The eligibility is related to five years' was rendered prior to regular appointment in the cadre, cannot count for the purpose of this rule because it cannot be considered as service in any eligible cadre. The Tribunal was, therefore,

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wrong in granting to RTPs the benefit of service rendered by them prior to their regular appointment, for the purpose of their eligibility to appear for the departmental promotion examination."

7. The learned counsel for the applicants submitted that the judgement of the Apex Court referred to above is in the context of granting RTPs the benefit as given to the Casual Labourers under the Casual Labourers (Grant of Temporary Status and Regularisation) Scheme framed under the circular No.45-95/87-STP I, dated 12.4.1991 issued by the Ministry of Communication, Govt. of India, Department of Posts and brought into effect from 29.11.89. Hence this OA has to be read from the point of view whether the applicants are entitled for the benefits under the said scheme instituted for Casual Labourers. He further submitted that such a scheme cannot be applicable to the applicants herein. But their rights for getting the period they served as RTPs counted for the purpose of seniority etc. cannot be denied. If it is denied, it will be violation of Articles 14, 16 and 39(d) of the Constitution.

8. The Apex Court had categorically stated that any service which was rendered by the RTPs prior to their regular appointment in the cadre cannot count for the purpose of this rule because it cannot be considered as a service in any eligible cadre and hence the Apex Court held that the benefits of service rendered by them prior to regular appointment, for the purpose of eligibility to appear for the departmental promotion examination etc. as directed by the Tribunal was wrong. From the clear cut decision of the Apex Court, the RTPs' service cannot be

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taken as a offshoot of consideration of the casual labourer scheme framed under the circular dated 12.4.91. The Apex Court has considered the various points in the above referred judgement and came to the conclusion that the service rendered by the RTPs prior to their regular absorption cannot be counted for any purpose. Hence the contention as raised by the applicants as above cannot be held as tenable.

9. The second contention raised by the applicants in this OA is that the judgement was issued on 1.8.97 and hence the judgement of the Apex Court is applicable only to the RTPs who joined service as RTPs on or after 1.8.97 but for those who joined as RTPs earlier to that date, this judgement will not bind them and hence they are entitled for all the reliefs asked for in this OA.

of RTPs' service for seniority etc. is a common question. That was raised every now and then by the RTPs in the various Benches of the Tribunal and that litigation was going on for a long time. All these contentions were considered and the Apex Court delivered the judgement in the above referred Civil Appeals. It cannot be said that the point had arisen only afresh and the Apex Court had delivered <sup>the</sup> judgement on that fresh contention. The contentions as noted in this OA is continuing for a very long time and all the questions were settled by the Apex Court judgement. Hence it is binding not only for RTPs who are being recruited after 1.8.97 but also for those recruited earlier to that date. The question of

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prospective application of this judgement doesnot arise.

11. The next contention raised by the learned counsel for the applicants is that the Jabalpur Bench of this Tribunal had held that the relief asked for has to be given and that judgement when challenged before the Supreme Court, the Supreme Court dismissed that appeal. Thus the judgement of the Jabalpur Bench of this Tribunal in this connection had become final. Hence the respondents should act as per that decision. The judgement of the Jabalpur Bench of this Tribunal and the judgement of the Supreme Court when challenged against that judgement has not been annexed. The learned counsel for the applicants has only produced the judgement of the Apex Court in Appeal No.11513/87 dated 11.5.88. We have gone through that judgement. We do not find that this judgement in no way gives any relief as asked for in this OA. Hence this contention also fails.

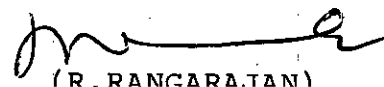
12. In view of what is stated above, the OA is dismissed. Any service of the applicants which was rendered prior to regular appointment in the cadre cannot count for the purpose of seniority, grant of annual

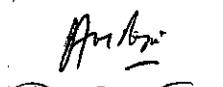
13. The OA is ordered accordingly. No order as to

  
(B.S.JAI PARAMESHWAR)

27.8.97

DATED: 27<sup>th</sup> October, 1997

  
(R. RANGARAJAN)

  
D.R. (57)



7/1/97  
TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR .

Dated: 25/10/97

ORDER/JUDGMENT

in  
O.A. NO. 1499/94

Issues and Interim Directions  
Issued.

Allowed

Disposed of with Directions

Dismissed as withdrawn

Dismissed for Default

Ordered/Rejected

No order as to costs.

II Court

