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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

O.A. NO. / 1994

BETWEEN :

S. HARINARAYAN & 541 OTHERS

.. .. APPLICANTS

AND

UNION OF INDIA, REPRESENTED BY ITS
SECRETARY, DEPARTMENT OF TELE COMMUNICATION,
NEW DELHI AND 22 OTHERS

.. .. RESPONDENTS

AMENDMENT OF CAUSE TITLE OF O.A. AT PAGE 30 CARRIED VIDE ORDERS
DATED 18-08-1994 OF HONOURABLE TRIBUNAL, PASSED IN O.A. SR NO. 2125A

APPLICANTS serial No. 1 to 9, 438 and 439 are working under
(hereinafter referred to as " W/U") RESPONDENT No. 4, Serial No. 10
to 34, W/U R5, 35 to 89 and 541 W/U R6, 90 to 108 W/U, R7, 109 to
126 and 542 W/U R8, 127 to 147 W/U R9, 148 to 157 W/U R10, 158 to
161 W/U R11, 162 to 177 W/U R12 178 to 239 and 537 W/U R13, 240 to
291 W/U R14, 292 to 314 W/U R15, 315 to 335 W/U R16, 336 to 363 &
540, W/U R17, 364 to 401 W/U R18, 402 to 432 W/U R21, 485 to 516
W/U R22 and 517 to 536 W/U R23.

Venkatesh
COUNSEL FOR THE APPLICANTS

19/8/94

RECORDED

Recd. Copy
W.U.
NR dated 19-8-94
ff

530. K.Naga Raju S/o Tatabbai, aged about 42 yrs. T.T.A. O/o D.E. Microwave Project, Vijayawada.

531. E.Raja Reddy S/o Baji Reddy, aged about 45 years, T.S.O. O/o D.E. Carrier & VFT, Red Hills, Hyderabad.

532. P.Venkateswara Rao S/o Purnachandra Rao, aged about 36 yrs. Technician Stff.No.13886, O/o SDE (Inst.) Guntur.

533. P.Venkat Prasad S/o Amareswara Rao, aged about 41 yrs. T.T.A. Stff.No.1087, O/o Circle (Inst.) Suryalok Complex, Hyderabad.

534. V.Satyanarayana S/o Kotaiah, aged about 36 yrs. Technician, O/o D.E. CCP, Rajahmundry.

535. P.B.Sulebhavi S/o Bh.Sulebhavi, aged about 45 yrs. T.S.O. O/o D.E. EWSD, Telephone Bhavan, Hyderabad.

536. K.Anantha Raja S/o Sitaramayya, aged about 35 yrs. Technician O/o D.E. EWSD, Telephone Bhavan, Hyderabad.

537. Ch.Chandrasekhar S/o Achaiah, aged about 46 yrs. Ambajipeta O/o SDOT, Ravulapalem, East Godavari Dist.

538. K.Ashok Babu S/o Nagabushanam, aged about 37 yrs. Technician, O/o SDOP, Kothagudem, Khammam District.

539. D.Dharmarao S/o Venkata Ratnam, aged about 36 yrs. Technician, Nelakondapalli, O/o TDE Khammam Dist.

540. J.Venkata Rao S/o Krishna Murthy, aged about 32 yrs. Technician, O/o TDM, Eluru.

541. V.V.R.R.Shankar S/o Venkata Surya Prakasam, aged 31 years, Technician O/o RROC, Visakhapatnam.

542. M.Polaiah S/o Yarraiah, aged about 44 yrs. Tech. Supr.(O) O/o T.D.E. Srikakulam District.

.. APPLICANTS.

A n d

1. Union of India, rep. by its Secretary, Dept. of Telecommunications, Sanchar Bhavan, New Delhi.
2. The Chairman, Telecom Commission, Sanchara- Bhavan, New Delhi.
3. The Chief General Manager, A.P.Telcom Circle, Door Sanchar Bhavan, Abids, Hyderabad.
4. Telecom District,Engineer, Khammam.
5. Telecom District Engineer, Cuddapah.
6. Telecom District Manager, Visakhapatnam.
7. General Manager, Telecom District, Guntur.
8. Telecom District Engineer, Srikakulam.
9. Telecom District Engineer, Nellore.
10. Divisional Engineer (NRC), Secunderabad.

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11. General Manager (Transmission) Projects, Hyderabad.
12. Telecom District Engineer, Vizianagaram.
13. Telecom District Engineer, Rajahmundry, E.G.Dist.
14. Telecom District ~~Engimeer~~ Manager, Kurnool.
15. Telecom District Engineer, Warangal.
16. Telecom District Engineer, Nalgonda.
17. Telecom District Manager, Eluru, W.G.District.
18. Telecom District Manager, Anantapur.
19. Telecom District Engineer, Karimnagar.
20. Telecom District Engineer, Nizamabad.
21. Telecom District Engineer, Mahabubnagar.
22. Telecom District Manager, Tirupati.
23. Divisional Engineer, Circle Installation, Suryalok Complex, Hyderabad-1.

(Address for service of notices to Applicants is that of this Court, ~~of this Court~~ ~~Mr. Venkateswaran, Advocate, file no. 12; Simhas Colony, S. S. Nagar, Hyderabad-38~~ RESPONDENTS.

DETAILS OF APPLICATION

1. Particulars of the Order against which the Application is made :
 - i) Order No. : The impugned order dated 23-8-1991 vide Letter No.3-27/90-P&T restricting the implementation from 1-10-1990 of Notification dated 2-10-1990 was set aside by the Bangalore Bench, Central Administrative Tribunal through its Judgement dated 26-3-1993 in O.A. No.1423 of 1993 filed by the Applicants of Hyderabad Jurisdiction on the file of the Central Administrative Tribunal, Hyderabad Bench, through its Judgement dated 28-3-1994. The Applicants in this Application are entitled for all the benefits, as directed in the above mentioned Judgement and Order Dt:26-3-1993 and also in O.A.No.1423 of 1993 pronounced by the Additional Bench of Central Administrative Tribunal, Hyderabad.
 - ii) Date : Impugned Order dt. 28-8-1991 ~~28-3-94~~ ^{in O.A. No. 1423}
 - iii) Passed by : Respondent No.1.

iv) Subject in brief: Counting of the training period of 12 months as service for the purpose of increment from 1-10-1990 and extending this benefit to those who underwent training on or after 1-1-1986 and on actual basis from 1-10-1990.

2. JURISDICTION OF THE TRIBUNAL:

The Applicants declare that the subject matter of this Application is within the jurisdiction of the Hon'ble Tribunal Under Section 14(1) of the Administrative Tribunal Act of 1985.

3. LIMITATION :

The Applicants submit that they have filed this application for obtaining the same order as the order dated 26-3-1993 passed by the Hon'ble Tribunal, Bangalore Bench, and also order dt 28-3-94 in O.A. No. 1423/93 in O.A. No. 156 of 1993 passed by the Hyderabad Bench, for the Applicants of Andhra Pradesh jurisdiction, setting aside the clarification dated 23-8-1991 (A II) restricting implementation of O.M.No.16-16/89-Estt.(Pay-I) dt.31-3-1992, and further directing the Respondents to treat the training period of 12 months undergone by the Applicants as on duty for the purpose of increment notionally from 1-1-1986, and for the actual benefit of the increment from 1-10-1990 onwards and hence the applicants submit that the O.A. is not barred by limitation under Section 21 of Tribunals Act.

4. FACTS OF THE CASE:

The facts of the case are submitted below:

(a) The Applicants are direct recruits working as Technician T.T.As/Technician Supervisors in the Department of Telecommunications prior to 1-10-1986 under the jurisdiction of

Respondents 4 to 23 respectively.

The Technicians, Telephone Operators and Clerks are all working in the present scale of Rs.975/- per month. The Clerks and Operators are required to undergo training for a period of 12 months. Only after completion of such training, the respective persons could be appointed in the posts which they are initially selected. Accordingly, the Clerks and Operators were appointed after completion of 3 (three) months training period, on regular basis, in the posts for which they were initially selected, whereas the technicians were appointed on regular basis, after completion of 12 (twelve) months training in the posts for which they are initially selected with the result that the technicians got postponed and Clerks and Operators are drawing increments earlier to the Technicians. Hence the staff since made demands to remove this anomaly and the Government in the J.C.M. (Joint Council Meet) held on 22-1-1990 decided as follows:

"The matter has been considered in the National Council (MCM) and it has been decided that in case, where a person has been selected for regular appointment and before formally taking over charge of the post for which selected person is required to undergo training, training period undergone by such a Government servant, whether on remuneration of stipend or otherwise, may be treated as on duty for the purpose of drawing increments."

The Government of India in the Ministry of Communication issued O.M. dt.22-10-1990, Annexure-A.I of which paras 2 to 4 are extracted below:

"2. The staff since in the National Council (J.C.M.) have raised a demand that the training period should be counted for the purpose of drawing increments as otherwise the concerned staff, particularly the Non-gazetted in the Technical Department, where the training period is a long one, is put to perpetual disadvantage vis-a-vis the staff in Non-technical jobs, who are recruited along with Technical staff in the same scale of pay."

"3. The matter has been considered in the National Council (JCM) and it has been decided that, in case where a person has been selected for regular appointment and before formally taking over charge of the post for which selected person is required to undergo training, training period undergone by such a Government whether on remuneration of stipend or otherwise, may be treated as duty for the purpose of drawing increments."

"4. These orders take effect from the 1st of the month in which this O.M. is issued."

By another communication dated 17-9-1991, a clarification was issued by the Government and the same is contained in Annexure-A.¹ The relevant para, being last para, read as follows:

"It is clarified that these orders are applicable only in cases of direct recruits, who are compulsorily required to undergo training before taking up Government employment. These orders are effective only from 1-10-1990 ie., in cases where appointments take place on or after 1-10-1990."

(b) Having been aggrieved by the Arbitrary fixation of the Cut-off date as 1-10-1990, the Applicants working under the jurisdiction of the General Manager, Bangalore a Telecom District preferred application No.156 of 1992 before the Hon'ble Bangalore Bench of the Central Administrative Tribunal . During arguments, the Counsel for the Applicants, produced another O.M. dt.31-3-1992 by which the President of India was pleased to extend the benefit of treating such training as duty for the purpose of increment to those who underwent training on or after 1-1-1986 on a notional basis and from 1-10-1990 on actual basis.

The relevant para is extracted below:

"The undersigned is directed to say that in accordance with the Orders contained in this Ministry's O.M.No.16-16/89-Estt.(Pay-I) dt. 22-10-1990, the period spent on training is treated as duty for the purpose of increment in cases where a person has been selected for regular appointment, but before formally taking over charge of the post for which selected is required to undergo training. These orders take effect from 1-10-1990 on demand of the Staff side in the National Council (JCM) the matter has further been examined and the President is pleased to decide that the benefit of treatment of such training, as duty, for the purpose of increment, may be allowed in the case of these Government servants also have undergone such training on or/have after 1-1-1986. However, in such cases the benefit of notional basis from 1-1-1986 and actual basis from 1-10-1990."

(c) On consideration of the above facts, relating to the issuance of the above cited O.Ms. and also in consideration of the fact that no reasons were given for fixing the cut off days and relying on the decision of the Supreme Court as reported in A.I.R. 1983 S.C.130 the Hon'ble Bangalore Bench by order dt.26-3-1993, in O.A.No.156 of 1992, set aside the clarification dt.23-8-1991, restricting the implementation of Annexure-A2 from 1-10-1990 and also restricting the same from 1-1-1986 as per O.M. dt.31-3-1992 as arbitrary and violative of Article 14 of the Constitution of India, and having found no justification for not extending the benefit of O.M. dt.31-3-1992 to those recruited prior to 1-1-1986, directed the Government to extend the said benefit to the applicants in O.A.No.156 of 1992, also, who were ~~xxx~~ recruited prior to 1-1-1986, directed the Government to extend the said benefit to the applicants in O.A.No.156 of 1992 also, who were recruited prior to 1-1-1986. Further the applicants in O.A.No.1423 of 1993 before this Hyderabad Bench preferred an Application and this Hon'ble Bench was kind enough to pronounce orders and Judgement on 28-3-1994 for extending the above said benefits to all its applicants. The Applicants in this O.A. are similarly situated as the Applicants before the Hon'ble Bangalore Bench in O.A.No.156 of 1992 and also in O.A.No.1423 of 1993 and they are eligible for granting the same relief as those granted by the Bangalore Bench of Central Administrative Tribunal and also by the Hyderabad Bench, in this regard.

Basing on the instructions issued from the Department of Telecommunications, New Delhi, the Bangalore Judgement has been implemented that the Department in the meeting

done between the employees union and the Department officials assured that they are going to implement the Hyderabad Central Administrative Tribunal Order.

5. DETAILS OF THE REMEDIES EXHAUSTED:

The above O.A . is filed by the Applicants for the same reliefs as were granted by the Hon'ble Central Administrative Tribunal, Bangalore Bench and also of the Hyderabad Bench and has the nature of subject matter of this O.A. is such,that, the Respondents will have no jurisdiction to straight away implement the directions given by the Hon'ble Bangalore Bench and also the Hon'ble Hyderabad Bench unless, the same are granted by this Hon'ble Tribunal.

Hence, under the given circumstances, no application is filed before any of the Respondents by any of the Applicants for the reliefs sought for in this regard.

6. MATTER NOT PENDING WITH ANY OTHER COURT ETC.

The Applicants further declare that the matter regarding which this Application has been made is not pending before any Court of law or any other Authority or any other Bench of the Tribunal.

7. RELIEFS SOUGHT:

In view of the above facts mentioned in Para 6 & 4 above, the Applicants pray for the following reliefs on the basis of both the Judgements of Bangalore Bench and also of the Hyderabad Bench:

As the Applicants in this O.A. are Technicians/T.T.As/Technical Supervisors prior to 1-1-1986, the applicants pray that this Hon'ble Tribunal may be pleased to direct the Respondents No.1 to 23 to treat the training period undergone by the Applicants as on duty for the purpose of increment notionally and extend the actual benefit of increment from 1-10-1990 onwards, and grant all other consequential benefits, deemed fit and proper, in the circumstances of the case.

8. INTERIM ORDER, IF ANY PRAYED FOR:

Under the circumstances stated above, as the Applicants are praying for the same reliefs as granted by the Hon'ble Tribunal of the Bangalore Bench and also in accordance with the Judgement and Order of the Hyderabad Bench, above cited, no interim order is prayed for.

9. PARTICULARS OF POSTAL ORDER IN RESPECT OF APPLICATION

Fee :

i) Name of the Post Office on which the I.P.O. was issued : *Sto; Venkateswara*

ii) I.P.O. dated : 902 813670 - Rs 100/-
727681758 - Rs 2/- }
727681753 - Rs 2/- }
Rs 104/-

10. LIST OF ENCLOSURES:

1. I.P.O. mentioned above.

1/17/83/2m

2. Annexures as per Index; and

3. Vakalat.

I.P.O./B/27/B.D/Removed

VERIFICATION

We, the Applicants as stated in the cause title Sons of as stated in the cause title working as Technicians/ T.T.As/Technical Supervisors in the Office of as stated in the cause title having verified the contents in Paras 1 to 4, and 5 to 8 are true and correct to the best of our knowledge and belief, that those of the remaining paras are believed to be true on legal advise and that we have not suppressed by any material facts.

Hence, verified on this the 1st day of August 1994.

S. H. Reddy
SIGNATURE OF THE APPLICANTS
(Signature sheets are attached herewith).

Station: Hyderabad,

Venkatesh
ADVOCATE FOR APPLICANTS.

Dt: 1 -8-1994.

To

The Registrar,
Central Administrative Tribunal,
Hyderabad Bench,
HYDERABAD.

K. Chandrasekhar Rao

S. Anil

M. Jayashankar

T. Praveen

C. Raghuramulu

G. Pillai

A. Rajababu

G. Krishnabudde

(con. Reg 384)