

30

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD
O.A.NO.415 of 1994.

Between

Dated: 24.4.1995.

Tamma Ganapathi Rao

...

Applicant

And

1. Union of India, represented by Director General and Secretary,
Ministry of Communications, Department of Telecommunications,
Sanchar Bhavan, New Delhi.
2. Chief General Manager, Telecommunications, A.P.Circle, Hyd.
3. Senior Superintendent, Telegraph Traffic, VJ-Dyn. Vijayawada.
4. Superintendent, I/C, Central Telegraph Office, Vijayawada.

...

Respondents

Counsel for the Applicant

: Sri. P.Rathaiah

Counsel for the Respondents

: Sri. K.Bhaskara Rao, Addl.CGSC.

CURAM:

Hon'ble Mr. A.B.Gorthi, Administrative Member

Contd:....2/-

X As per Hon'ble Shri A.B.Gorthi, Member (Admn.) X

- - -

The applicant joined the Department of Telecommunications as a non-departmental Telegraphist on 15.4.63. He worked as such with some intermitant technical breaks till 19.3.65 before he was absorbed as a regular time scale clerk in the same department w.e.f. 16.12.65. The claim of the applicant is that the period of service rendered by him as a non-departmental Telegraphist ^{should} count towards regular service for all purposes such as pay fixation, payment of increment etc.

2. The respondents in their reply affidavit have stated that the applicant worked for 647 days as a non-departmental Telegraphist and that it was a casual engagement though payments were made on monthly basis. As he was regularly appointed as a Telegraph Assistant (Time Scale Clerk) on 16.12.65, his service from that date alone would count for all purposes and that the benefit of previous service as a non-departmental Telegraphist could not be given to him for any purpose.

3. Mr.B.S.A.Satyanarayana, learned counsel for the applicant urged that in respect of non-departmental Telegraphist subsequently absorbed as Telegraphist the department gave the benefit of counting the ^{& former} normal service in the later appointment for all purposes and that there is no justification for denying the same benefit to non-departmental Telegraphist absorbed in other posts such as Telegraph Assistant. Similar benefit is ^{also} given to temporary Telegraph men employed on traffic basis on their absorption as regular Telegraph Men (Class-IV).

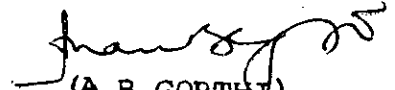
4. The short issue to be determined is whether a non-departmental Telegraphist on his absorption as a Telegraph Assistant should get the same benefit as being given to non-departmental Telegraphist absorbed as Telegraphist. The constitutional guarantee of equality in terms of Article 16 of the Constitution will apply if it is shown that Telegraphist and Telegraph Assistant form one and the same class. Undisputedly it is not so. The respondents have categorically stated that the duties of a Telegraphist are operative in nature and those of Telegraph Assistant are non operative. The benefit given to the former category is based on the fact that the duties performed by Non-departmental Telegraphist and a Telegraphist are identical. The same is not the case of a non-departmental Telegraphist absorbed as a Telegraph Assistant. This would be ~~the position~~ Telegraphist and a Telegraph Assistant are same; the criterion being not the scale of pay of the post but the nature of duties performed in that post.

5. In view of the afore-stated, the respondents' decision not to count the service as a non-departmental Telegraphist for purpose of pay fixation etc in the post of Telegraph Assistant cannot be said to be discriminatory as would be violative of the principle of equality enshrined in Article 16 of the Constitution. The service/pensionary benefits which should be given to a particular class of employee is a ~~matter which is for the Tribunal to decide~~ into consideration all the relevant factors such as the nature of duties performed etc. It is not for the Tribunal to declare that a Telegraph Assistant should be treated ^{at par with} ~~as~~ a ² Telegraphist or even ~~as~~ a Telegraph man for the purpose of granting him such service benefit as is being given to a person in the category of Telegraphist or Telegraph man.

33

.. 3 ..

6. For the afore-stated reasons I am unable to accede to the claim of the applicant in this OA. The O.A. is dismissed accordingly without any order as to costs.


(A.B.GORTHY)
Member (Admn.)

(Dictated in Open Court)

sd


Deputy Registrar (Judl.)

Copy to:-

- Union of India, Department of Telecommunications, Sanchar Bhavan, New Delhi.
- 2. Chief General Manager, Telecommunications, A.P.Circle, Hyd.
- 3. Senior Superintendent, Telegraph Traffic, VJ.Divn, Vijayawada.
- 4. Superintendent, I/C, Central Telegraph Office, Vijayawada.
- 5. One copy to Sri. P.Rathaiah, advocate, CAT, Hyd.
- 6. One copy to Sri. K.Bhaskara Rao, Addl. CGSC, CAT, Hyd.
- 7. One spare copy.

Rsm/-

OA 415/94

TYPED BY
CHECKED BY

COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

THE HON'BLE SHRI A.V. HARIDASAN: MEMBER (J)

AND

THE HON'BLE SHRI A.B. GORTHY: MEMBER (A)

DATED

24/4/95

ORDER/JUDGMENT

M.A. NO./R.P. NO./C.P. NO.

in

O.A. NO.

415/94

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default

Rejected/Ordered.

No order as to costs.

YLKR

no spare copy

70

