

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

(29)

ORIGINAL APPLICATION NO.657/95

DATE OF ORDER : 09-03-1998.

Between :-

1. P.R.K.Satyanarayana Murthy
2. Ch.Mrutyunjaya Rao

... Applicants

And

1. The Chairman,
Telecom Commission (Rep. Union of
India), Sanchay Bhawan, New
Delhi-100 001.
2. The Chief General Manager,
Telecommunications, AP Telecom
Circle, Hyderabad-1.

... Respondents

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Counsel for the Applicants : Shri N.R.Srinivasan

Counsel for the Respondents : Shri Kota Bhaskar Rao, Addl-CGSC

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CORAM:

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

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (J)

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Sri N.R.Srinivasan, counsel for the applicant and Sri Kota Bhaskar Rao, standing counsel for the respondents.

2. There are 2 applicants in this O.A. They are presently working as Asst.Engineers under the control of Respondent No.2. Earlier the first applicant was working as Jr.Telemic Officer, Telephone Exchange, Bhimavaram and the second applicant was working as Jr.Telemic Officer, Telephone Exchange, Emmiganur.

3. They were promoted as JTOS when they were working in the cadre of Transmission Assistants later, on the basis of the promotion examination held. In the promotion examination held earlier against 15% quota of vacancies, they appeared for the examination held on 24th and 25th February, 1982 but their results were withheld. When they represented the matter to the respondents, they were then informed that their candidature for the said examination was cancelled on the directions of the P & T Directorate; but no reason for cancellation was given. When they pursued the matter further they were informed that the DGP & T had withdrawn their eligibility to appear for the said examination under the 15% quota as they were working in the promoted cadre of Transmission Assistant at that time in 1982 and had not put in ^{the} minimum service in that cadre. The applicants then submitted that the Department had not only allowed similarly placed persons in other circles to appear for the examination under the 15% quota and also appointed them as JTOS later. Hence they filed WP 4636/86 before the Hon'ble High Court of Andhra Pradesh which was transferred to this Tribunal on its formation and was3.

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re-numbered as TA 531/86. In the meantime the applicants appeared for the JTO Examination held in the year 1984 under the 10% quota reserved for Transmission Assistants and succeeded and were appointed as JTOs with effect from 21-7-86 and 14-3-86 respectively.

T.A.531/86 was disposed of by order dt.7-11-86. As per the operative portion of that order the respondents were directed to promote the applicants/petitioner as JTOs with effect from the date issued in the year 1982 persons immediately below them in the merit list were promoted with all consequential benefits. This would mean that the applicants should be promoted as JTOs on par with their juniors who were promoted on the basis of the examination held on 24th and 25th February, 1982. The Respondent No.2 thereafter revised the seniority list as per Annexure-4 showing the applicants at Sl.No.6-A and 6-B by order No.TA/STB/18/10/IX dt.7-9-87 (page-24 to the OA).

A scheme called Lateral Advancement of JTOs after completion of 12 years of service was issued by order No.5-10/89-NCG dt.26-6-90 (Annexure A3 to the OA). By that order the JTOs who completed 12 years of service since the appointment in the cadre of Engineering Supervisor/J.E./J.T.O. as on 1.1.90 and onwards will be placed in the higher scale of Rs.2,000-3,500/-.

The applicants submit that by virtue of order in TA 531/86 they had completed 12 years of service in the cadre of JTO on 25-11-94, the date on which their junior Sri Narayana Rao had completed 12 years of service. The applicants further submitted that/the combined gradation list of JTOs and Asst. Superintendents Telegraph Traffic published by the 2nd respondent under his letter No.TA/STB/18/12A/I dt.21-12-94 the said

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Sri G.Narayana Rao is shown at Sl.No.759 whereas the applicants herein are placed at Sl.Nos.756 and 757 respectively. They also submit that number of their juniors were also brought under that scheme and were given higher scale of pay as can be seen from the list issued dt.30-3-95 (Page-35 to the OA).

6. The applicants submit that their seniority was reviewed and they were given the post of JTO right from 1982 onwards. Eventhough they had not worked as JTOs right from 1982 onwards they deemed to have been posted in the JTO cadre with effect from 1982 and that should give them the relief on par with their junior Sri G.Narayana Rao eventhough they have not been put 12 years of actual service as JTOs when Sri Narayana Rao was promoted under the lateral advancement scheme.

7. This OA is filed for promoting the applicants under the lateral advancement scheme counting their services as JTO from 25-11-82 when their juniors Sri Narayana Rao entered the cadre of JTO and fix them in the higher scale of Rs.2,000-3,500 under the said scheme on par with the said junior. They also challenge the order dt.30-3-95 whereby number of juniors were given the scale of pay of Rs.2,000-3,500 under the lateral advancement scheme.

8. No reply has been filed in this OA. Counsel for the respondents submits that the applicants can be given that promotion only if they completed actually 12 years of service as JTO and then only they are entitled for getting scale of Rs.2,000-3,500 under the Lateral Advancement/Promotion scheme. Just because their juniors were brought under that scheme as they had completed 12 years of service as JTO that will not give any right to the applicants to get that scale. The

respondents produced citation of a case of this Tribunal which we

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consider not relevant to the issue. The learned counsel for the applicants relying on the reported case P.V.Suoramanian Vs. Union of India & others (1987 (3) ATC 598) submits that retrospective promotion to the feeder post even without actually working there counts towards the fulfilment of said precondition for further promotion. In the present case as the applicants were given retrospective seniority on par with Sri Narayan Rao and that Narayan Rao was promoted as JTO in the year 1982, they should also be deemed to have completed 12 years of service in the year 1994.

9. Though the applicants were promoted as JTOs in the year 1986 they were given the status of JTO with retrospective effect from 1982. Though they had not completed 12 years of service counting their service as JTO from 1986, by the time Sri Narayan Rao was promoted, they are entitled for counting their service as JTO from the retrospective date i.e. 1982. If the period of service as JTO is counted from the year 1982, they are entitled for the scale of Rs.2,000-3,500 on par with Sri Narayan Rao. Counsel for the applicant submits that the above submission is in accordance with the decision cited above.

10. We have no hesitation in agreeing with the submission of the counsel for the applicant. The case of the applicant who had filed the case in the Madras Bench of the Tribunal (Sri P.V.Subramanian's case) is more or less similar to the present case and hence the applicant is also entitled for the same relief as granted to Sri PV Subramanian in the above referred case.

11. In the result, the respondents are directed to fix the pay

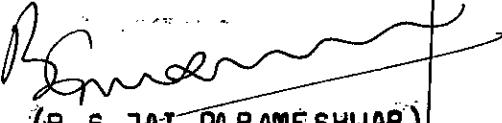
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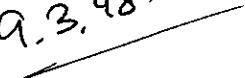
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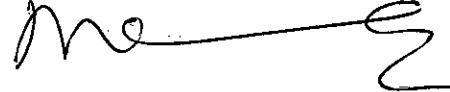
of the applicants on par with their junior Sri Narayan Rao from the date Sri Narayan Rao was given the scale of Rs.2,000-3,500, if they fulfill other conditions as laid down in the lateral advancement scheme, the applicants are also entitled for consequential arrears accordingly.

12. With the above direction, the Original Application is disposed of. No order as to costs.


(B. S. JAI PARAMESHWAR)

Member (J)


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R. RANGARAJAN

Member (A)


Dated: 9th March, 1998.
Dictated in Open Court.

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Copy to :-

1. The Chairman, Telecom Commission, Sanchar Bhavan, New Delhi.
2. The Chief General Manager, Telecommunications, A.P. Telecom Circle, Hyderabad.
3. One copy to Mr. N.R.Srinivasan, Advocate, CAT., Hyd.
4. One copy to Mr. K.Bhaskar Rao, Addl.CGSC., CAT., Hyd.
5. One copy to D.R.(A), CAT., Hyd.
6. One duplicate copy.

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COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR. B. RANGARAJAN : M(A)

AND

THE HON'BLE MR. B. S. JAI PARAMESHWAR :
M(J)

DATED:

9/3/98

ORDER/JUDGMENT

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

in
D.A. NO.

657/95

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS
DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS.

II COURT

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