

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.731 OF 1995

DATE OF ORDER: 16th February, 1998

BETWEEN:

1. N.BALAKRISHNA,
2. K.R.G.D.PRASADA RAO,
3. U.TUKARAM,
4. GVV SATYANARAYANA,
5. A.NAGARAJ,
6. Ch.VEERA RAGHAVULU,
7. T.NARASIMHA MURTHY,
8. B.PITCHAIAH,
9. B.RAMULU,
10. P.VENKATA RAO

.. APPLICANTS

AND

1. The Chief General Manager,
Telecom, A.P.Circle,
Doorsanchar Bhavan,
Hyderabad,
2. Union of India, represented by
the Secretary to the
Dept. of Telecommunications,
New Delhi,
3. The Director General,
Telecommunications,
New Delhi,
4. The Chief General Manager,
Southern Telecom Projects,
No.3, Ethiraj Salai,
Madras-105.

.. RESPONDENTS

COUNSEL FOR THE APPLICANTS: Mr.K.Venkateswara Rao

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.)

JUDGEMENT


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

Heard Mr.K.Venkateswara Rao, learned counsel for
the applicants and Mr.V.Rajeswara Rao, learned standing
counsel for the respondents.

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2. There are 10 applicants in this OA. They are aspirants for the post of Senior Accounts Officer in the scale of pay of Rs.2200-4000 from the lower grade of Rs.2375-3500 in the Telecom Department. The applicants in this OA submit that they were not promoted immediately on completion of three years of service as given in the O.M.No.F.6(82)-IC/91 dated 22.9.92 (Annexure A-I at page 7 to the OA). It is stated in the above said OM that the Office Order will be effective from 1.4.92. However, the benefit of fixation of pay on notional basis in the promotional scale of Rs.2200-4000 may be allowed with effect from 1.4.87 or from the first of the month following the month in which the officer completed three years of regular service as Audit/Accounts Officer in the scale of pay of Rs.2375-3500 whichever is later subject to the availability of the posts in the promotional grade. No arrears of pay will be admissible for the period prior to 1.4.92.

3. The applicants submit that all the Accounts Officers were given higher scale of pay with effect from 1.4.87 on the basis of the OM dated 22.9.92 when the scheme was introduced. The applicants became eligible for the post of Senior Accounts Officer in the scale of pay of Rs.2200-4000 after the initial recruitment ^{was} ~~is~~ over as per the OM and they became eligible some time in 1992-93. But they were given that scale of pay only from the date they were shown promoted but not from an earlier date when they had completed three years of regular service in the lower grade of Rs.2375-3500 ~~even though they had completed three years of service~~ and the posts in the higher grade of Rs.2200-4000 were available. It is stated that they have



submitted a representation to R-3. One of the representations submitted by the applicant No.4 is at Annexure A-V at page 16 to the OA. It is further stated that the respondents never cared to reply their representation.

4. This OA is filed praying for declaration that the applicants are entitled for promotion to the functional promotion grade of Senior Accounts Officers in the scale of Rs.2200-4000 from the first of the month next to the month in which they completed 3 years of regular service as Accounts Officers with all attendant benefits by holding the action of the respondents in not granting the benefit of promotional scale to them while extending to other similarly situated Accounts Officers who were promoted earlier and later than the applicants as illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India.

5. The main contention of the applicants is that the Accounts Officers were given the scale of pay of Rs.2200-4000 when they were promoted earlier ^{retrospectively} i.e., earlier to their promotion and the officers who were juniors to them when promoted were also given the higher scale from the date of their completion of three years' service. To prove that the juniors were also given promotion from the date they completed three years' of service retrospectively the applicants have enclosed OM No.2/94/MF,CGA(A) Gr-B/1789 dated 30.3.95 (Page 3 to the rejoinder). When the senior officers and the juniors officers to the applicants were given promotion on completion of three years' of service in the lower grade, such a benefit cannot be denied to them.

If it is denied, it should be treated as a case of discrimination violating Articles 14 and 16 of the Constitution of India.

6. A reply has been filed in this OA. The respondents in their reply submit that the scheme was introduced by the OM dated 22.9.92 and the scheme came into effect with effect from 1.4.87. As the posts were deemed to have been created with effect from 1.4.87 and as the OM for creation of higher grade posts was issued much later, those eligible for promotion after the introduction of the higher scale were given the benefit with effect from 1.4.87 but that was only a notional promotion without any payment of arrears. The fixation of pay in the higher grade was given only with effect from 1.4.92 for the purpose of granting them arrears. Hence the applicants who were not considered for promotion to the higher grade immediately after the introduction of the scheme, cannot demand for the higher scale as the period in which they were promoted is immediately after they have^d completed three years' of service and that the short period is not to be taken note of as ^ythough it was^a delayed ~~their~~ promotion. The respondents in their reply did not say that similar benefit with retrospective promotion ^{was} ~~is~~ given to some of their juniors even though they were promoted later than them. There is no averment in the reply in regard to the OM dated 30.3.95. In view of the above, the case of the applicants needs to be reviewed. Under the circumstances, following direction is given:-

The representation of the applicant No.4 dated 18.7.94 enclosed to this OA at Annexure A-V, page 16, is to be disposed of in accordance with law taking due note of

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the contentions made in this OA. If other applicants had also represented their case, those representations also should be disposed of as above. In case they have not filed any representation so far, they should be asked to submit their representation and those representations should be disposed of taking due note of the contentions made in this OA and the observations made by us.

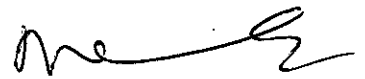
7. Time for compliance is four months from the date of receipt of a copy of this order.

8. The OA is disposed of as above. No order as to costs.



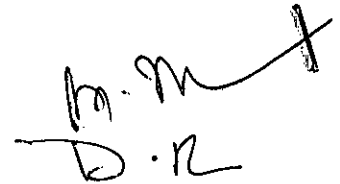
(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)

16.2.98



(R. RANGARAJAN)
MEMBER (ADMN.)

DATED: 16th February, 1998
Dictated in the open court.



vsn

DA.731/95

Copy to:-

1. The Chief General Manager, Telecom, A.P.Circle, Doorsanchar Bhavan, Hyderabad.
2. The Secretary to the Dept. of Telecommunications, New Delhi.
3. The Director General, Telecommunications, New Delhi.
4. The Chief General Manager, Southern Telecom Projects, No.3, Ethiraj Salai, Madras.
5. One copy to Mr. K.Venkateswara Rao, Advocate, CAT., Hyd.
6. One copy to Mr. V.Rajeswara Rao, Addl.CGSC., CAT., Hyd.
7. One copy to D.R.(A); CAT., Hyd.
8. One duplicate copy.

srr

23/2/98
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TYPED BY
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: 16/2/98

ORDER/JUDGMENT

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

in

O.A. NO. 731/95

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

YLKR

