

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.257/95

DATE OF ORDER : 28-10-1997.

Between :-

S.S.Inde

... Applicant

And

1. The Director General,
Telecommunications, Ashok Road,
Samachar Bhavan, New Delhi.
2. The Chief General Manager,
Telecommunications, AP Circle,
Samachar Bhavan, Hyderabad-1.

... Respondents

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Counsel for the Applicant : Shri V.Venkateswara Rao

Counsel for the Respondents : Shri N.V.Raghava Reddy, 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 V.Venkateshwar Rao, counsel for the applicant and Sri N.V.Raghava Reddy, standing counsel for the respondents.

2. The applicant in this OA was initially appointed as Telegraph Asst. (Clerk) on 8-1-58. Thereafter, he was opted for the post of Tele-Typist and was appointed as such on 8-12-62. The category of Tele-Typist is now called as TOA (T). The pattern of TOA (T) was adopted by Respondent No.2 by introduction of OTBP Scheme. Subsequently, the BCR Scheme was also introduced with effect from 16-10-92 in the office of Respondent No.2. As per the OTBP and BCR Scheme, the higher scale of Rs.1400-2300 and Rs.1600-2600 are granted to the basic holders on completion of 16 years and 26 years of service in the basic cadre i.e. Clerk/Tele Typist/Telegraphists etc. The case of the applicant is that he has joined the service on 8-1-58 and he has completed 26 years of service by January, 1984 and he is eligible to get the scale of Rs.1600-2660 as per the BCR Scheme and on that basis he should also be given the scale of pay of Rs.2,000-3200 for those coming as per seniority/^{within} the 10% quota for promotion to the higher scale of pay of Rs.2,000-3200.

3. The applicant filed representation dt.12-8-92 in this connection quoting the name of certain officials who had joined in 1958 and were given the scale of pay of Rs.2,000-3,200/- against the 10% quota. That representation was rejected by the impugned order dt.6-12-93 (Annexure-II page-8 to the OA). He once again submitted representation addressed to Respondent No.2 dt.9-2-94. That was

also rejected by letter No.TA/TFC/26-2/BCR/SSI/93 dt.24-2-94. Once...3.

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again the applicant submitted representations dt.7-6-94 (Annexure - VI to the OA). That representation was also rejected quoting the earlier letter~~s~~. The applicant retired from service on 31-10-93.

4. This O.A. is filed praying for a declaration that the applicant is entitled to be granted upgradation to the 10% BCR scale of pay of Rs.2,000-3200 with effect from 29-8-91 with all consequential benefits such as arrears of pay, allowances and fixation of pay etc...

5. The main contention of the applicant is that his entry into the service is dt.8-1-58 should be taken for counting the 26 years of service and on that basis he should be given the scale of Rs.2,000-3,200 when he was working in the scale of pay of this contention, he relies on the judgement of the Principal Bench of this Tribunal in OA 1455/91 dt.7-7-92 (Smt.Santhos Kapoor & others Vs. Union of India & others). The applicant further submits that the qualifying service has to be counted from the date he joined the basic cadre and not any other date even if he opted to join in other cadre in the postal department. The applicant further submits that he has joined as Telegraph Assistant (Clerk) on 8-1-58 and that date will govern his fixation of pay in OTBP/BCR/10% higher grade in the department. Accordingly due to the fact that he came to the Tele Typist cadre in 1962 he cannot be denied counting of service from 1958. He joined as Tele Typist at the instance of the department and not on his option. Hence counting the qualifying service for 16 and 26 years from the year 1962 is against the principles laid down by the Principle Bench in the above referred OA. He also states that the BCR Scheme provides for counting of service from the date of joining and not from any other later date.

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6. A reply has been filed in this OA. The contention of the respondents in this OA is that the applicant has been transferred as Tele-Typist with effect from 16-10-62 on the basis of Director General's letter No.208/4/61-STB dt.5-5-1962 (this letter is taken on record). As per that letter, options were called from Telegraph Assistants (Clerks) to come as Tele-Typist and those opted were given seniority from the date they were absorbed in that cadre. That becomes the basic cadre for the employees to get fixation of pay in OTBP and BCR and further ^{promotion and} fixation of pay in the higher scale of pay. No employee can ask for an earlier date even if they joined or even if they were posted earlier to 1962 in view of the DGs letter. Hence the basic cadre of the applicant is Tele-Typist and he joined in that cadre on 16-10-62 and he is entitled for fixation in the higher ~~scale~~ grades ^{after} 16 and 26 years ^{experience} on the basis of that date only.

7. The point for consideration in this OA is in regard to the basic cadre of the applicant, which will govern the fixation of pay in OTBP and BCR and further fixation of the higher grades.

8. The applicant ^{accepted,} ~~came~~ even if he has not opted to the cadre of Tele-Typist, without any murmur. He has been given the seniority at the bottom seniority unit of Tele-Typist with effect from the date he ~~has~~ joined that cadre i.e. 16-10-62. The DGs letter dt.5-5-62 is very clear. If the applicant is aggrieved by that letter, he should have challenged that letter. He has not challenged that letter. The seniority is to be fixed in the basic cadre not with respect to his earlier cadre of clerk. If that is so, then the contention of the applicant that his basic cadre is telegraph Asst. (Clerk) cannot be ^{Countenanced} ~~counted~~. No rule or instruction has been produced

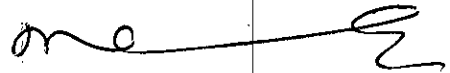
- 5 -

to show that the date of entry into service other than the cadre he had worked and his seniority borne on that cadre is to be treated as a basic cadre. No doubt the applicant joined as Clerk but he has disowned that status and joined as Tele-Typist replacing his basic cadre from the Clerk to Tele-Typist. Hence it is to be held that he ^{was} ~~has~~ borne in the cadre of Tele-Typist ^{and} not in the basic cadre of Clerk. If so his qualifying service for OTBP/BCR or higher promotions to the higher pay scales has to be decided on the basis of his date of entry into that cadre viz., Tele-Typist in the present case. If that is so, then he is entitled for promotions only from the date of his joining that service. This in our opinion is in accordance with the directions of the Principal Bench in the O.A. referred to above. If any of his juniors in the basic cadre of Tele-Typist have been given the higher scale of Rs.2,000-3,200 during his service period, then the applicant is also entitled for that. But no such material to show that his juniors in the cadre of Tele-Typist have been given the scale of pay of Rs.2,000-3,200 before he retired from service. Hence we find no merit in this OA.

9. In the result, the OA is dismissed as lacking merits. No

costs.

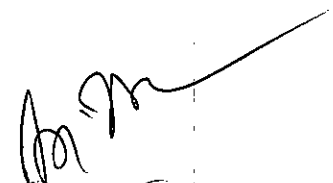

(B.S. JAI PARAMESHWAR)
Member (J)


(R. RANGARAJAN)
Member (A)

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Dated: 28th October, 1997.
Dictated in Open Court.

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D.R. (J)

OA.257/95

Copy to:-

1. The Director General, Telecommunications, Ashok Road, Samachar Bhavan, New Delhi.
2. The Chief General Manager, Telecommunications, A.P.Circle, Samachar Bhavan, Hyderabad.
3. One copy to Mr. V.Venkateswara Rao, Advocate, CAT., Hyd.
4. One copy to Mr. N.V.Raghava Reddy, CGSC., CAT., Hyd.
5. One copy to D.R.(A), CAT., Hyd.
6. One duplicate copy.

srr

10/11/97
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 :
M (J)

Dated: 28/10/97

ORDER/JUDGMENT

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

in

D.A.NO. 257/95

Admitted and Interim Directions
Issued:

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default

Ordered/Rejected

No order as to costs.

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