

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.1045/97

dt.28-6-99

Between

Y. Satyamurthy

: Applicant

and

Union of India, rep. by
1. Chief Signal & Telecom
Engr.(Cons), Project Network Centre
SE Rly., BDA Rental Colony
Chandrasekharapur
Bhubaneswar 751016

2. Chief Personnel Officer
SE Rly., Garden Reach
Calcutta 700043

3. Chief Project Manager
SE Rly, DRM's office Complex
Dondaparthi
Visakhapatnam 530004

4. Divnl. Signal & Telecom Engr.(Cons)
O/o Dy.CSTE/DSTE(Cons)
DRM's office complex, SE Rly.
Dondaparti, Visakhapatnam 4

5. Sri MPC Rao
Section Engr(Telecom)
O/o the Dy.CSTE/DSTE(con)
DRM's office complex, SE Rly.
Dondaparti, Visakhapatnam-4

: Respondents

Counsel for the applicant

: C. Suryanarayana
Advocate



Counsel for the respondents

: C.V. Malla Reddy
SC for Railways

Coram

Hon. Mr. R. Rangarajan, Member(Admn.),

Hon. Mr. B.S. Jai Parameshwar, Member(Judl.)



Order

Oral order (per Hon. Mr. R. Rangarajan, Member (Admn.))

Heard Mr. C. Suryanarayana for the applicant and Mr. C.V. Malla Reddy for the respondents. Notice served on Respondent No.5 called absent.

1. The applicant in this OA while he ^{was} working as Senior Section Engineer (Telecom), office of the Dy.CSTE/DSTE filed this OA for stepping up of his pay on par with ~~of~~ that of his junior Mr. M.P.C. Rao, Respondent No.5 from the date Respondent No.5 is drawing more pay than the applicant and for consequential relief of payment of differences in pay and allowances within the time limit fixed by the Tribunal.
2. The applicant earlier filed OA.783/94 on the file of this Bench which was disposed on 19-4-1996. In that OA also the applicant prayed for a direction to the respondents for stepping up of his pay equal to his Junior Respondent No.5 and other consequential benefits. That OA was disposed of by directing Respondent No.2 therein to issue a speaking order in regard to the reference made by Respondent no.3 therein vide letter dated 22-9-1993 (Annex.A-5 in OA.783/94) after calling for other records in this connection within a period of three months from the date of receipt of ^a copy of that judgement in the above referred OA. That direction was complied by letter No.S&T/Con/E/cc/2763 dt.11-4-1997 (Annex.6 to the OA) . By that order the request of the applicant for stepping up of pay was refused. It is not understood why the applicant has not challenged that order. In any case ^{we} _L thought of disposing of that ^e case on merits.

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3. The applicant in this OA was originally appointed on 28-5-1970 as Apprentice ATCI in the pay scale of Rs. 205-280/-/1400-2300 in Open line. He reached the position of TCI Gr.I in the scale of Rs.700-900/2000-3200 (RP) from 8-3-88 and his pay was fixed at 2240 in the Open line under DRM(S&T), Khurda. On 1-3-1989 his pay was raised to Rs.2300/-. Thereafter he came on transfer to Construction organisation on 25-7-1989 as TCI Gr.I under Respondent-4. The applicant worked in Open line organisation till he was transferred to Construction 1-9-1989 as TCI Gr.I in the scale of Rs.2000-3200.

4. Respondent-5 is admittedly junior to the applicant. Respondent-5 was originally appointed on 27-7-1963 as Temporary Khalasi in Open line. Later on he was selected as Apprentice TM Gr.III with effect from 7-2-1964 in the Artisan category in the scale of Rs.110-180/950-1500 and was posted under DRM(S&T) Bilaspur. Subsequently, Respondent-5 was transferred under RE (Construction) BSP as TM Gr.II in the scale of Rs.130-212/1200-1800/-. He was later promoted as TM Gr.I in the scale of pay of Rs.175-240/1320-2040 with effect from 8-12-1969. It is stated in the reply dated 11-4-1997 that Respondent-5 had worked in the Open line only for a short time. He was all along working in RE Construction Organisation at Visakhapatnam against temporary work charged post by retaining his lien in Open line.

5. The Construction organisation utilised him in the ^{higher grades} ~~next zone of consideration~~ by promoting him on adhoc basis against Temporary work charged post. Respondent-5 was posted and promoted as TCI Gr.III in the scale of Rs.205-280/1400-2300 on 21-12-1970 on adhoc basis and regularised in

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that grade on 4-7-1983. He was given regularisation in different grades on par with his juniors in the Open line due to his lien kept in the Open line under next below rule provision. Due to exigency in services Respondent-5 was promoted purely on adhoc basis as TCI Gr.I in the scale of Rs.2000-3200 with effect from 12-11-1990 in the construction organisation and finally he was regularised as TCI Gr.I only on 28-8-1996.

6. From the above details two points are clearly made evident. They are :

- i) The applicant was all along in the Open line till he was sent to RE Construction on 1-9-1989. If the applicant submits that he came to Construction organisation earlier, the material available on record does not indicate as seen from the letter dated 11-4-1997. It is not impugned in this OA. The Bench has to adhere to the records available rather than verbal assertions of the applicant. The pay of the applicant while coming to Construction organization was fixed on the basis of pay fixation in the Open line on his promotion as TCI Gr.I in Open line organisation.
- ii) Respondent-5 was sent to RE Construction organisation with effect from 8-12-1969. He was continuing there right from that day. He never worked in Open line organisation after 8-12-1969 though he has been keeping lien in Open line construction having confirmed as TCM Gr.III with effect from 7-2-1964.

7. From the above two important points it is evident that the applicant came to construction organisation ^{at} a later date than Respondent-5 and his pay was correctly fixed in Construction organisation on the basis of his pay fixed in

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Open line as TCI Gr.I. Respondent-5 worked in Construction organisation and went up on adhoc basis due to exigencies.

8. These two organisation namely Open line and Construction are two different compartments. Hence comparing pay fixation of Respondent-5 with that of the applicant when he joined later in the construction organisation may not be appropriate. This also is the view of the Apex Court in the reported case of AIR 1998 SC 2992 (Union of India and others vs. M. Suryanarayana Rao). It was held in the above cited case that, adhoc promotion given in a different Circle will not give any right for a senior employee to demand stepping up of pay on par with a junior employee who has been promoted in a different circle. The above view is very relevant for this case.

9. The applicant knows very well that he is senior to Respondent No.5. When Respondent No.5 was promoted to higher grade in the Construction organisation due to some reason or other he could have easily represented his case for posting him in the Construction organisation in the place of Respondent-5. But there is no evidence available on record to show that such a request was made. Probably, the applicant was selected and continuing in Open line even though his junior was promoted in the Construction organisation. Having failed to assert his right as above the applicant at this juncture cannot ask for stepping up of pay on par with his junior who was promoted on adhoc basis in a different unit.

10. The learned counsel for the applicant relies on the letter No.E/5/1/S&T/5156 dt.22-9-95 (Annex.4) to state that the applicant had also worked in Construction organisation right from 1969 and later come to Open line. But that does not

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prove that the applicant is to be given the benefit of stepping up of pay as his junior Respondent-5 had worked in the Construction organisation and obtained adhoc promotion in the exigency of service. The official who signed the Annexure A-4 had correctly rejected the case of the applicant for stepping up of pay as was done by CPO in the letter dated 11-4-1997.

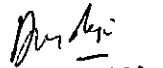
11. In view of what is stated above ^{that} we find there is no case for the applicant for granting stepping up of pay on par with Respondent-5. Hence, the OA is liable to be dismissed. Accordingly the OA is dismissed. No costs.


(B.S. Jai Parameshwar)
Member (Judl)


(R. Rangarajan)
Member (Admn.)

28/6/99

Dated : June 28, 99
Dictated in Open Court


27/6/99

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COPY TO:-

1. HDHND
2. HHRP M(A)
3. HBSJP M(J)
4. D.R.(A)
5. SPARE

1ST AND 2ND COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR
VICE - CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD :
MEMBER (A)

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

THE HON'BLE MR. B. S. JAI PARAMESWAR :
MEMBER (J)

ORDER: 28-6-79

ORDER / JUDGEMENT

MA./DA./CP No. _____

in

O.A. No. 1045/79

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED.

C.P. CLOSED.

R.A. CLOSED.

O.A. CLOSED.

DISPOSED OF WITH DIRECTIONS.

DISMISSED.

DISMISSED AS WITHDRAWN.

ORDERED / REJECTED.

NO ORDER AS TO COSTS.

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
बेवप / DESPATCH

22 JUL 1979

हैदराबाद न्यायपीठ
HYDERABAD BENCH