

FORM . NO. 21. (See. Rule.114.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH. HYDERABAD.

O.A. No.

1956

1997

J. S. L Murthy

Applint(s)

Versus

In Secretary, O.P.Telcom, New Delhi & others
Respondent

INDEX SHEET

Sl.No.	Description of Documents & Date.	Pages.
1.	Docket Orders.	1 to 3
2.	Interim Orders.	31 to 33
3.	Orders in M.A (s) 8-6-98.	34 to 38
4.	Reply Statement. 1-4-99.	
5.	Rejoinder.	39 to 45
6.	Orders in (Final orders) 12-4-99.	
		1 to 68

2/5/99
Signature of Dealing Head
(in Record Section)

Signature of S.O.

MA 1256/92. v/s OA 1256/92

DATE	OFFICE NOTE	ORDER
	08-06-98-	

Heard Mr. N. R. Srinivasan for the applicant and Mrs. Sakthi for Mr. J. R. Gopala Rao for the respondents.

2. The applicant was given seniority above that of his junior when they were working, in the grade of Rs. 425-640/- w.e.f., 1-6-97 onwards. The applicant submits that his pay is not fixed on par with his junior on the basis of the seniority. Hence his pay was fixed after the fixation of his seniority some time in 1992.. At that time the applicant did not questioned the validity of his fixation of his pay less than his junior. The applicant submits that he came to know of the fixation of his pay lower than his junior only when his junior retired in November, 1993. He submitted a representation in April, 1995 for fixation of his pay on par with his junior. He approached this Tribunal on 11-9-97 when he received a reply rejecting his case. It is not understood why the applicant has not taken action immediately in 1993 itself when he came to know that his junior was drawing more pay than him. Further, when he has not received any reply to his representation submitted in 1995 he did not approach the judicial forum if no reply is received to his representation in time. He approached this Tribunal on 11-9-97 belatedly.

3. The learned counsel for the respondents submit that the applicant cannot claim any relief as this application has been filed belatedly and if the applicant is aggrieved by wrong fixation of his pay he should have approached this Tribunal some time in 1992 itself. To the question why no reply was given to the applicant when he filed representation in 1995, the learned counsel for the respondents could not give any convincing reply. The reason for the belated issue of the reply is not fully answered.

4. The payment of pay and granting of increment is a continuous process. Hence under the circumstances quoted above the OA is disposed of as below:-

5. The applicant, if he succeeds in this OA is ~~not~~ eligible for fixation of his pension on the basis of the revised pay only from the date of filing of this OA i.e., from 11-9-97 onwards as the applicant had already retired from service in 1995.

6. The OA is ordered accordingly.

REGISTER THE OA.

ADMIT.

JW
HBSJP
M(J)

HRRN
M(A)

SMH/JK
16/6/98
Issued
18/6/98

O.A. 1256/97

DATE	OFFICE	NOTE	ORDER
			30.3.99
		Post this O.A. tomorrow	
	R HBSJP M(J)		HRRN M(A)
	31.3.99		
		Post on 7.4.99. No further adjustment will be given.	
	HBSJP M(J)		HRRN M(A)
9.4.99		Post this O.A. at 2.15 on Monday (12.4.99) at 2.15 P.M. at the request of the applicant Camil.	
	JE HBSJP 9.4.99 M(J)		HRRN M(A)
		12-4-99	
		O.A. disposed of. Order vide separate sheet. No cost.	
	R HBSJP M(J)		HRRN M(A)

Central Administrative Tribunal Hyderabad Bench: Hyderabad

O.A. No.

1256

of 1997.

T. S. R. Murthy

Applicants(s).

VERSUS.

The Secy. Dept. of Telecom.

Min. of Communication, N-Delhi & as

(Respondents).

Date	Office Note	ORDER
25.9.97	Mr. NR. Srinivasan, for the applicant and Mr. Phalguna Rao for Mr. J. R. Gopala Rao, for the respondents.	<p>The seniority of the applicant was fixed on par with his junior in OA 657/97 and his pay on that basis was fixed on 4.3.92. The applicant filed a representation after 2, 3 years for fixing his pay on par with his junior. It is not understood why it he took such a long time to file a representation. That request was turned down in the year 1995 immediately after passing of the impugned order. We are not satisfied with that order. The applicant unnecessarily delayed in filing the representation which resulted in issue of the impugned order subsequently. The applicant has to explain for the delay.</p> <p>The learned counsel for the applicant submitted that he will file a delay condonation petition. List after the petition is filed.</p> <p>8-1-98.</p> <p>For (HRSJP) M(J) 25.9.97</p> <p>(HRRN) M(A)</p>

MA. 1257/97 is ordered. Order in
MA sheets.

MA. 1256/97

Notice.

List it on 12-2-98. Reply in the meanwhile.

HRSJP
M(J)

HRRN
M(A)

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH : HYDER

ORIGINAL APPLICATION NO.

1256

~~1256~~ OF 1997.

J.S.R. Murthy

(Applicants(s))

VERSUS.

Union of India, Repd. by.

The Secretary, Dept. of Telecom, Min. of

Communications, New Delhi 920016

(Respondent(s)).

The application has been submitted to the Tribunal by
Shri N.R. Sanivasan Advocate/party-in
person Under Section 19 of the Administrative Tribunal
Act, 1985 and the same has been scrutinised with reference
to the points mentioned in the check list in the light of
the provisions in the administrative Tribunal (procedure)
Rules 1987.

The application is in order and may be listed for
Admission on 9-97

On
18/9/97
Scrutiny Asstt.

Anup
DEPUTY REGISTRAR (JUDL)

11. Have legible copies of the annexure duly attested Yes

12. Has the applicant exhausted all available remedies. Yes

13. Has the Index of Documents been filed and pagination done properly. Yes

14. Has the declaration as is required by item No. 7 of Form 1 been made. Yes

15. Have required number of envelops (file size) bearing full addresses of the respondents been filed. Yes

16. (a) Whether the relief sought for, arise out of single cause of action.

(b) Whether any interim relief is prayed for, Yes

17. (c) In case an MA for coronation of delay is filed, is it supported by an affidavit of the applicant. -

18. Whether this cause be heard by single Bench.

19. Any other points.

20. Result of the Scrutiny with initial of the scrutiny clerk. May be filed

On 18/19/97
Scrutiny Assistant.

Section Officer.

Deputy Registrar.

Registrar.

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD.

Dairy No. 2928/92

Report in the Scrutiny of Application.

Presented by M. N. R. Srinivasan Date of Presentation.

Applicant(s) J. S. R. Murthy

Respondent(s) The Secretary, Dept of Telecom, Min of Communications, New Delhi

Nature of grievance Stepping up of Pay

No. of Applicants 1 No. of Respondents 3

CLASSIFICATION.

Subject..... No Department... Telecom..... (No)

1. Is the application in the proper form, (three complete sets in paper books form, in two compilations). Yes
2. Whether name description and address of all the parties been furnished in the cause title. Yes
3. (a) Has the application been fully signed and verified. Yes
(b) Has the copies been duly signed. Yes
(c) Have sufficient number of copies of the application been filed. Yes
4. Whether all the necessary parties are impleaded. Yes
5. Whether English translation of documents in a language other than English or Hindi been filed. -
6. Is the application on time, (See Section 21). Yes
7. Has the Vakalatnama/Memo of Appearance/Authorisation been filed. Yes
8. Is the application maintainability. (U/S 2, 14, 18, or U/R. 8 Etc.,) Yes
9. Is the application accompanied IPC/OD, for Rs.50/- Yes
10. Has the impugned order's original, duly attested legible copy been filed. Yes

P.T.O.,

CENTRAL ADMINISTRATIVE TRIBUNAL (YODHABAD BRANCH: HYDERABAD)

INDEX

Case No.

1256

~~1256~~ ~~1997~~

of 1997.

CAUSE TITLE

J. S. R. Murthy

VERSUS

The Secy. D/o. Telecom

Min. of Communications, New Delhi & Ors

SL. NO.	Description of documents	Page No.
1.	Original Application	1 - 12
2.	Material Papers	13 - 24
3.	Vakalat	1
4.	Objection Sheet	-
5.	Spec. Copies	- 3 -
6.	Covers	- 3 -

7. Reply Statement filed by Mr. J. R. Sareer Rao
on 11/4/98

Reg:- To quash the impugned order dt 28.2.97 and direct the 4
respondent No.3 to rectify the pay of the applicant by obtain
revised option in terms of O.M. dated 27.5.1988

Bench Case
U/S 19 of the A.T. Act, 1985
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Hyderabad Bench :: Hyderabad

Stepping up of pay

1256
O.A. No. ~~1050~~ of 1997

Telecom (B)

BETWEEN

J.S.R. Murthy, Applicant

AND

The Secretary, Dept. of Telecom,
Min. of Communications, New Delhi
And 2 Ors. Respondents

CHRONOLOGY-CUM-INDEX

Sl. No.	Date	Description of the document	Ann	Page
1.	26-12-1990	Judgment and order in RP No.29/90 in OA 657/87	A-1	13-16
2.	27-6-1991	R-2's orders giving notional promotion to the app. w.e.f. 1-6-74	A-2	17
3.	8-12-1991	Pay fixation Memo.	A-3	18
4.	4-3-1992	Pay Fixation Memo	A-4	19
5.	27-5-1988	DOP's O.M. providing for revised option for pay fixation in revised scales	A-5	20
6.	28-11-1988	Stt. of fixation of pay Sri M. Laxmanacharyulu, the app.'s junior	A-6	21-22
7.	28-4-1995	Applicant's rep. to R-3 explaining the pay anomaly and requesting him to permit the app. to exercise his revised option for pay fixation	A-6	23
8.	28-2-1997	Impugned order of R-3 rejecting the app.'s request		
9.	5-10-1991	Ltr. No. E-18/Com-Cor/TO/S/ III/90-91/23 of N. R. Srinivasan TDM, Telangana (N.R.SRINIVASAN) Counsel for the Applicant	A-8	24

Hyderabad,
10-9-1997

*11 SEP 1997
2928*
N.R. Srinivasan
(N.R.SRINIVASAN)
Counsel for the Applicant

*Reffed
10.9.97
N.R. Devary
R. N. Devary*



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
HYDERABAD BENCH, HYDERABAD

1256
O.A.No. ~~657~~ of 1998

BETWEEN

J.S.R. Murthy, S/o late J. Brahmaiah, aged about 59 years,
Telephone Supervisor (Retd), R/o H.No.26-565-7,
Paraspet, Masulipatnam 521001

..... Applicant

AND

- 1) The Secretary, Department of Telecom, Ministry of Communications, (Representing Union of India), Sanchar Bhavan, 20, Asoka Road, New Delhi 110001.
- 2) The Chief General Manager, Telecommunications, A.P.Telcom Circle, Abids, Hyderabad 500001.
- 3) The General Manager, Telecom District, Vijayawada 521010.

..... Respondents

(The Address of the applicant for service of notice is that of his ~~Adv~~ Counsel, Mr.N.R.Srinivasan, Advocate, 6-1-132/54/G-3, Karthikeya Apartments, Skandagiri, Padmaraonagar, Secunderabad 500061)

DETAILS OF APPLICATION

1) Particulars of the order against which this application is being made:

This application is being made impugning the 3rd Respondent's letter No.E-366/V/93-94/TO/25 dated 28/2/1997 (Annexure A- 8) under which the applicant's request for permitting him to exercise revised option for fixation of pay as per Annexure A-6 dated 27/5/1988 was arbitrarily and unjustly rejected on the plea the same was exercised belatedly despite the fact it was within the respondents knowledge that the applicant could not exercise his option due to pendency of O.A.No. 657 of 1987 filed by him before this Hon'ble Tribunal and the fact that the decision of the Hon'ble Tribunal in its order dated 26/12/1990 in R.P.No.29 of

1990 in the said O.A. (vide Annexure A-1) has radically altered the position of his pay and the same could not be envisaged by the applicant before the expiry of the prescribed time for exercise of the said option.

2) Jurisdiction of the Tribunal:

The applicant declares that the subject matter of the O.A. is covered under Section 14(1) of the A.T.Act,1985.

3) Limitation:

The applicant further declares that the impugned order Annexure A- 8 was issued by the 3rd respondent on 28-2-1997 and therefore the subject matter is within the limitation prescribed under Section 21 of the A.T.Act, 1985.

4) Facts of the case:

(4.5) (a) The applicant joined as Telephone Operator on 15/7/1959 in the former Hyderabad Telegraphs Engineering Division at Nanded. On bifurcation of Hyderabad Division, he opted for the residuary Hyderabad Division and whence he was repatriated and posted to Karimnagar. Later, when the Hyderabad Division was again bifurcated, he opted for Vijayawada Division and accordingly repatriated to the said Vijayawada Division. Seniority of such optees is protected and they are treated as though they are originally recruited in the Division to which they stand repatriated by virtue of their option.

(a) Though seniority of Telephone Operators recruited before 22/12/1959 is to be determined according to the length of service, in the applicant's case his seniority was decided on the basis of date of confirmation. Consequently, the applicant's juniors were shown senior to him.

© Though initially the applicant's representation against the wrongful fixation of his seniority was rejected by the administration, but later as a consequence of the Hon'ble Supreme Court's decisions reported in AIR 1972 SC

670 and AIR 1970 SC 1329, the Circle Gradation List of TOs in A.P. Circle was recompiled and the applicant was shown at Sl.No.526 thereof while Shri M.Lakshmanacharyulu was shown at Sl. No535 as against their earlier placements at Sl.No.362 and 287 respectively in the Circle Gradation List as on 1/1/1977.

(d) The applicant's junior, the said Shri M.Lakshmanacharyulu was promoted as Telephone Supervisor (SCO) with effect from 1/6/1974 on the basis of the CGL as on 1/1/1977 whereas the applicant was promoted only with effect from 1/9/1976.

(e) After the revision of the seniority list of TOs showing the applicant senior to the said Shri M.Lakshmanacharyulu, the applicant had represented to the authorities in December, 1978 for removal of anomaly in the fixation of his pay at least to the level of the pay of the said Shri M.Lakshmanacharyulu, his junior. The Divisional Engineer, Telecom, Eluru refixed the pay of the applicant at Rs.425 with effect from 1/4/1976 and not from 1/6/1974, the date from which the applicant's junior was given promotion. His representation to the Divisional Engineer, Telecom, Masulipatnam (under whose jurisdiction he came to work by then) to reconsider the matter and revise his pay from 1/6/1974 instead of 1/6/1976 was rejected on the plea that Shri M.Lakshmanacharyulu was promoted earlier to the applicant.

(f) The applicant made a representation on 6/10/1983 to the General Manager, Telecom, A.P. against the rejection of his claim submitting that as per the decision of the Hon'ble Supreme Court when the seniority in the cadre of TOs was revised, promotions made on the basis of the earlier CGL to the cadre of Telephone Supervisors should also be reviewed and therefore requested that he should be given notional promotion with effect from 1/6/1974 on par with his junior Shri M.Lakshmanacharyulu. But, the said representation also was rejected by the GMT A.P. on the plea that the revision of seniority will not entitle the

employee to any further benefit other than notional promotion as ordered by the Court and the applicant is not entitled to stepping up of his pay.

(g) The applicant subsequently made a representation to the GMT A.P. Hyderabad submitting that the non-assignment of his rightful seniority *ab initio* is at the root of all his grievances and that the decision of the Hon'ble Supreme Court directing that all consequential benefits should also be given after revising the seniority and that he would have been promoted earlier had his seniority been fixed properly at the initial stage. Subsequently he represented to the President of India also, but with no response.

(4.7) Under the circumstances, the applicant approached this Hon'ble Tribunal for the redressal of his grievances by filing the O.A.No.657 of 1987 which was initially rejected by this Tribunal, but on the applicant preferring a Review Petition against the said rejection this Hon'ble Tribunal upheld the contention of the applicant and allowed the review petition. In its order dated 26/12/1990, in R.P.No.29 of 1990 in the said O.A. vide Annexure A-1, the Tribunal made the following observations:

“Mr. Lakshmanacharyulu with whom the applicant compares himself was promoted earlier on 1/6/1974 whereas the applicant was promoted only on 1/4/1976. That was because the respondents were acting on the old seniority list. The new seniority list was issued by the respondents only in November, 78 though in pursuance of the judgment dated 4/1/1972 of the Supreme Court the Department of Personnel have issued O.M.No. 9/5/72-Estt.(D) on 22/7/1972 itself indicating the lines on which the seniority list should be revised. If the respondents had reviewed the seniority list within a reasonable time, the applicant would have been promoted on 1/6/1974 itself at least at the same time Mr.Lakshmanacharyulu was promoted on 1/6/1974. The petitioner is entitled to be promoted with effect from 1/6/1974 and he is entitled to his seniority fixed on that date with fixation of pay on that date.”

and consequently directed that : "This order shall be implemented within a period of two months from the date of receipt of this order."

(4.3) The applicant submits that the above order was implemented by the 2nd Respondent only after repeated representations from the applicant and under his Memo No. TA/STB/13-7/JSR dated 27/6/1991, vide Annexure A-2 the applicant was given notional promotion with effect from 1/6/1974. Thereupon his pay was revised under Telecom District Manager, West Godavari, Eluru No.E-18/Gen-Corr/TOs/III/90-91/23 dated 5/10/1991 (vide Annexure A-3) and Telecom District Manager, Vijayawada Memo No.E-366/90-91/58 dated 4/3/1992 (vide Annexure A-4) the applicant's pay was fixed at Rs.425 as on 1/6/1974 in the pre-revised scale of Rs.425-640 (Annexure A-3) and at Rs.1760 as on 1/1/1986 (Annexure A-4) when the revised scale of Rs.1400-2300 recommended by the 4th CPC came into effect. Consequently his pay in the BCR scale of Rs.1600-2660 to which grade he was promoted with effect from 16/10/1990 was fixed at Rs.2100 with effect from that date with DNI on 1/10/1991 to the stage of Rs.2150.

(4.4) Meanwhile, orders were issued under Ministry of Finance (Department of Expenditure) O.M.No.7(52)-E.III/86 dated 27/5/1988 (vide Annexure A-5) providing an opportunity to the employees to switch over to the revised scale of pay from their next increment or subsequent increment falling after 1/1/1986, but not later than 31/12/1987 in respect of the post held by them on 1/1/1986 with the benefit of pay fixation under Rule 7 of CCS(RP) Rules, 1986 instead of the F.Rs. The employees were allowed to exercise their option by 31/08/1988. This decision was taken by the Government after representations were made by the Staff Side in the National Council of Joint Consultative Machinery to rectify the anomalies still existing after similar opportunity was provided with cut off date as 31/12/1986.

(4.5) (a) As the O.A.No.657 of 1987 aforementioned was still pending before this Hon'ble Tribunal as on 31/08/1988, which was the last date prescribed by the Government for exercise of revised option by the employees, the applicant could not exercise his option.

(d) But the applicant's junior the said Shri M.Lakshmanacharyulu with whom the applicant was claiming parity in pay fixation exercised his revised option on the basis of the provisions of the above mentioned O.M. Annexure A-5 and chose to switch over to the revised scale of pay with effect from 1/6/1987 instead of his original option for fixation with effect from 1/1/1986.

© Consequently, the pay of the said Shri M.Lakshmanacharyulu, which was originally fixed at Rs.1760 as on 1/1/1986 was refixed at Rs.1900 as on 1/6/1987 with DNI on 1/6/1988 at the stage of Rs.1950 vide statement of pay fixation dated 28/11/1988 issued under CCS(RP) Rules,1986 by the A.O. O/o DET Masulipatnam (Annexure A-6).

(4.6) Though the applicant's pay was revised under Annexures A-3 and A-4 in pursuance of this Hon'ble Tribunal's directions to the respondents in R.P.No.29 of 1990 in O.A.No.657 of 1987 granting parity in pay with the said junior Shri M.Lakshmanacharyulu, the applicant continued to draw less pay than his junior since there was an upward revision of the junior's pay. Under Annexures A-3 and A-4 the applicant's pay was fixed ignoring the fact of the upward revision of the pay of his junior and without giving the applicant an opportunity to exercise revised option as provided under the above mentioned O.M. Annexure A-5. As a result, the applicant drew only Rs.1800 as on 1/6/1987 as against Rs.1900 drawn by his junior on the same date. Thus the anomaly in the pay of the applicant in comparison to his junior was not resolved.

(4.7) Therefore, the applicant represented the matter to the 3rd Respondent through his letter dated 28/4/1995 (vide Annexure A-7) and requested him to

permit the applicant to exercise revised option though belatedly taking into consideration the fact that the applicant could not exercise his option because of the pendency of his O.A. before this Hon'ble Tribunal. But, under the 3rd respondent's impugned letter No. E-366/V/93-94/TO/25 dated 28/2/1997 (Annexure A- 8), the applicant's representation was rejected on the plea that "his case cannot be considered for non-fulfilment of conditions" though there was no mention of what these conditions were and further on the plea that "option submitted after due date cannot be accepted".

(4.8) The applicant submits that the action of the 3rd respondent in denying him an opportunity to exercise his option as provided under O.M. Annexure A-5 is arbitrary, unjust and iniquitous and violative of natural justice. It is obvious that the 3rd respondent has resorted to a mechanical application of the provisions of the above Memo regarding time limit prescribed for exercise of option for pay fixation and has ignored the fact that the applicant could not exercise his option only because of the pendency of the O.A.No.657 of 1987 filed by him claiming parity in pay fixation with his junior. He has also failed to consider the fact that the decision of the Hon'ble tribunal in the said O.A. has altered the position in respect of pay of the applicant which could not be envisaged by him earlier in order to exercise the option in time. Similarly, the 3rd respondent has also failed to consider the fact that had the seniority of the applicant been fixed properly at the initial stage without compelling the applicant to needless litigation, the applicant would have been promoted in the normal course at least with effect from the date his junior Shri M.Lakshmanacharyulu was promoted and would have opted on similar lines as his junior did to avail the full benefit of fixation at higher stage granted by the O.M. Annexure A-5.

(4.9) (a) In this connection, the applicant submits that his case is similar to the facts of the case reported in **Anil Kr. Sen v. Union of India & ors.** (1997) 35

ATC 488. In its order dated 19/9/96 in O.A.No. 32 of 1994 the Calcutta Bench of this Hon'ble Tribunal made the following observations:

"7. The matter has been examined by me carefully after hearing the submissions of the learned counsel for both the parties, perusing the records and considering the facts and circumstances of the case. There is no dispute about the facts as narrated by the applicant save and except that the respondents have fixed the pay scale after the judgment passed by the CAT on the basis of the option given by him in 1979 giving him the benefit of 3rd Central Pay Commission w.e.f. 14/5/1975. The limited issue now to be adjudicated is whether such a fixation in the light of the facts and circumstances of the case has been properly done. In this connection I have perused the provision of Para 1317 of the Indian Railway Establishment Code Vol.II regarding option and change of pay or post. Particularly I have perused the Government of India's order as quoted GI MF O.M.No.2(62)-Est.III/60 dated 25/8/1960. The tenor of this order is that a railway servant is given a right to exercise option keeping his interest in future. This means that a railway servant as well as a Government servant has a right to give option for fixation of pay in such a manner that such fixation is beneficial to him. In the instant case, I find that the applicant had given option under the statutory ROPA Rules after recommendation of the 3rd Central Pay Commission was accepted and given effect to by the Government. At that point of time the applicant's pay scale was Rs.175-240 and since that pay scale was revised by the 3rd Central Pay Commission to the scale of Rs.380-560 the applicant had given option in such a manner that the fixation of pay in the revised scale of pay shall be beneficial to him. However, the judgment passed in 1992 in O.A.No.920 of 1987 completely changed the scenario and by virtue of the judgment the applicant became entitled to receive the pro forma fixation of pay along with arrears from a much earlier date. In the judgment there is no discussion of exercise of any option. The option given by the applicant was, therefore, only in respect of normal revision of pay under the Statutory Rules. At the time of exercise of the option, the applicant could not realise that the situation would change subsequently and, therefore, obviously, the

applicant had exercised option keeping in view the prevailing situation at that time.

8. In view of the changed situation the applicant has now prayed for fixation of his pay in the revised pay scale as per 3rd Central Pay Commission with effect from the earlier date because, in that event, such a fixation will be beneficial to him. I find that there is no rule which deprives a Government Servant from making such a claim. On the other hand, fair play, natural justice and equitable consideration are all in favour of the applicant. The applicant has already retired from service and the only benefit he will get from such retrospective fixation of pay on that basis since 1/1/1973 will be the enhancement of some money and also his retirement benefits. Keeping in view the totality of the situation and the legal provision, I am of the considered opinion that there is no justifiable ground to deny the claim of the applicant for fixation of pay on pro forma basis from 1/1/1973 and, accordingly, the application should be allowed."

and consequently directed the respondents to grant all consequential benefits including retirement benefits to the applicant therein.

(b) The impugned order Annexure A-8 dated 28/2/1997 is contrary to the view taken by this Hon'ble Tribunal in the above O.A. and therefore not valid.

(4.2) Under the circumstances, the applicant has no other alternative or efficacious remedy except to approach this Hon'ble Tribunal in the exercise of its jurisdiction U/Ss 19 and 22 of the A.T. Act, 1985.

3) Grounds with Legal Provisions, if any:

(5.4) The Ministry of Finance, O.M. Annexure A-5 dated 27/5/1988 was issued after consultation with the Staff Side in the National Council JCM with an intention to rectify the anomalous position created by fixation of pay under F.Rs. as per the provisions of the Rule 9 of CCS(RP)Rules, 1986 in respect of those employees who opt to switch over to the revised scales from a date later than

1/1/1986. The impugned order Annexure A-8 dated 28/2/1997 is against the spirit of Government's Decision conveyed under the above O.M. dated 27/5/1988.

(5.5) The applicant could not exercise his option as per O.M. Annexure A-5 not intentionally, but because of the pendency of O.A.No.657 of 1987 before this Bench of the Tribunal in which he claimed parity in pay fixation with his junior Shri M.Lakshmanacharyulu. The decision of this Tribunal in R.P.No.29 of 1990 in the above O.A., Annexure A-1, has altered the position of the applicant by bringing about parity in pay between the applicant and his junior as on 1/6/1974. However, this parity having been disturbed subsequently only because the applicant's junior was able to exercise his revised option as per Annexure A-5, the respondents should have permitted the applicant to exercise his option. The rejection of the applicant's request for such exercise of revised option on the plea that the same is time barred ignoring the circumstances and background in which the said request has been made is unfair, unjust, iniquitous and arbitrary and therefore not valid.

(5.6) The impugned order, Annexure A-8 was made in ignorance of the fact that had the applicant's seniority been fixed properly at the initial stage without compelling him to needless litigation for the redressal of his grievances, he would have been promoted at least from the date his junior Shri M.Lakshmanacharyulu was promoted and thereby he would draw the same pay as that of his junior and consequently would have been in a position to avail the benefit extended by the Government under O.M. Annexure A-5 after exercising his option within time and in a manner which would have ensured him higher emoluments.

(5.7) The impugned order Annexure A-8 dated 28/2/1997 is violative of the principle of law established by the Hon'ble Tribunal in **Anil Kr. Sen v. Union of India & ors.** (1997) 35 ATC 488 wherein the respondents therein by the Tribunal to refix the pay of the applicant therein who was similarly placed as the

applicant herein is on the basis of his revised option with all consequential benefits including retirement benefits. The applicant is entitled to similar benefits.

(5.8) There is no rule or order or instruction which deprives a Government servant whose pay has been retrospectively changed as a consequence of Court's orders or otherwise from exercising his option for pay fixation provided under the beneficial orders issued in the intervening period.

(5.9) The applicant may be allowed to urge other grounds at the time of final hearing.

6) Details of remedies exhausted:

The applicant submits that there are no statutory remedies available to him in respect of the matter except to approach this Hon'ble Tribunal. However, he preferred a representation vide Annexure A-7 to the 3rd respondent, but the same was rejected by the 3rd respondent herein.

7) Matters not previously filed in or pending with any other Court:

The applicant declares that he has not previously filed any application, writ petition, or suit before any Court or authority or any other bench of this Hon'ble Tribunal regarding the matter in respect of which this application is made.

8) Reliefs sought:

In view of the submissions made under para 4 and 5 above, the applicant prays for the following among other reliefs :

- 1) To call for the records relating to the 3rd Respondent's impugned Lr.No.E-366/V/93-94/TO/25 dated 28/2/1997 (Annexure A- 8) and to set aside and quash the same declaring that the applicant is entitled to exercise revised option in terms of Ministry of Finance O.M.No.7(52)-E.III/86 dated 27/5/1988 (Annexure A-5) notwithstanding the expiry of the time limit fixed thereunder in view of the altered pay position of the applicant after the judgment of the tribunal in R.P.No.29 of 1990 in O.A.No.657 of 1987 was passed.
- 2) To consequently to direct the 3rd Respondent to refix the pay of the applicant by obtain revised option from the applicant in terms of the said O.M. No.7(52)-E.III/86 dated 27/5/1988 (Annexure A-5) and to fix the pay of the applicant accordingly with all consequential

benefits including retirement benefits with further directions to pay the arrears without any further delay in view of the fact that applicant was a victim of administrative delay in the past and further in view of the fact that the applicant is now a retired employee.

3) To pass such other or further orders as this Hon'ble Tribunal may deem just and proper in the circumstances of the case.

4) Interim Order, if any:

The applicant further prays that in view of the fact that he is now retired from service and further in view of the fact that he was a victim of administrative delay in settling his grievances, this O.A. may be heard expeditiously.

10) Particulars of Postal Orders in respect of Application Fees:

I.P.O.No. 8 - 12 - 231334 Dated 16.9.97 for Rs.50/-

(\$ 50) OA
S.P.O. REC'D. D.D. REC'D.

11) List of Enclosures:

- 1) Vakalat
- 2) I.P.O. as stated above
- 3) Annexures as per index

VERIFICATION

I, J.S.R.Murthy, S/o J.Brahmaiah, aged about 59 years, Telephone Supervisor (Retd), r/o H.No.26-565-7, Paraspet, Masulipatnam, temporarily come down to Hyderabad do hereby verify that the contents of paras 1 to 4, 6,7 and 11 are true to the best of her knowledge and belief and those of other paras are believed to be true on legal advice.

Hyderabad:

Date: 16.9.97

Signature of the Applicant


(N.R.Srinivasan)

Counsel for Applicant

Ann. A-1

(13)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

REVIEW PETITION NO. 29 of 1990

IN

O.A.NO.657/1987

DATE OF JUDGMENT: 26-12-1990

BETWEEN:

Mr. J. S. R. Murty

Applicant

AND

1. The Secretary, DOP & AR,
Ministry of Home Affairs,
New Delhi.
2. The Director General,
Telecom., New Delhi.
3. The General Manager,
Telecom., A.P., Hyderabad.
4. The Accounts Officer (F),
C/o General Manager Telecom,
Hyderabad.
5. The Divisional Engineer,
Telecom., Machilipatnam.

Respondents

FOR APPLICANT: Mr. C. Suryanarayana, Advocate

FOR RESPONDENTS: Mr. E. Madan Mohan Rao, Addl. CGSC

CORAM: Hon'ble Shri J. Narasimha Murthy, Member (Judl.)
Hon'ble Shri R. Balasubramanian, Member (Admn.)

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI J. NARASIMHA MURTHY, MEMBER (JUDL.)

This review petition was filed under Rule 17 of the Central Administrative Tribunal (Procedure) Rules 1987 seeking revision of the order passed on 13.2.1990 in O.A. No. 657 of 1987.

2. The applicant herein is the applicant in O.A. No. 657 of 1987. The applicant herein points out that though initially ^{he} was shown junior to Mr. M. Laxmanacharyulu, subsequently when the respondents revised the gradation list in the light of the Supreme Court decision, he was shown senior to Mr. Laxmanacharyulu in the list reviewed by the respondents. On 21.11.1978, the petitioner was shown in the seniority list at Sl. No. 526 and Mr. Laxmanacharyulu was shown at Sl. No. 535. The petitioner referred a decision of the Supreme Court in "Narender Chadha and others Vs. Union of India and others" (AIR 1986 SC 639) in support of his case for fixing his pay in the higher scale with effect from 1.6.1974 instead of 1.4.1976. It is laid down in Narender Chadha's case as follows:-

"If any officer is found entitled to be so promoted to a higher grade he shall be given such promotion when he would have been promoted in accordance with the new seniority list and he shall be given all consequential financial benefits flowing therefrom."

3. So, ~~accordingly~~ the petitioner contends that to the findings of the Supreme Court in Narender Chadha's case, his pay has to be fixed in higher scale with effect from 1.6.1974 when his junior was promoted instead of 1.4.1976.

4. Shri C. Suryanarayana, learned counsel for the applicant and Shri E. Madan Mohan Rao, learned Additional

.. 3 ..

Standing counsel for the respondents, argued the matter.

Mr. Laxmanacharyulu with whom the applicant compares himself was promoted earlier on 1.6.1974 whereas the applicant was promoted only on 1.4.1976. That was because the respondents were acting on the old seniority list.

The new seniority list was issued by the respondents only in November 1978 though in pursuance of the judgment dated 4.1.1972 of the Supreme Court, the Department of Personnel have issued O.M.No.9/5/72-Estt.(D) on 22.7.1972 itself indicating lines on which seniority list should be revised. If the respondents had reviewed the seniority list within a reasonable time, the applicant would have been promoted on 1.6.1974 itself atleast at the same time

Mr. Laxmanacharyulu was promoted on 1.6.1974. The petitioner is entitled to be promoted with effect from 1.6.1974 and he is entitled to his seniority fixed on that date with fixation of pay on that date. This order shall be implemented within a period of two months from the date of receipt of this order.

5. The review petition is accordingly allowed. No costs.

CERTIFIED TO BE TRUE CLP
 Dated.....31.1.91.....
 Court Officer
 Central Administrative Tribunal
 Hyderabad Bench
 Hyderabad.

True Copy
 A. I. Prabhakar
 Counsel for Applicant

.. 4 ..

To

1. The Secretary, DOP & AR, Ministry of Home Affairs, New Delhi.
2. The Director General, Telecom., New Delhi.
3. The General Manager, Telecom., A.P., Hyderabad.
4. The Accounts Officer (F), C/o General Manager Telecom, Hyderabad.
5. The Divisional Engineer, Telecom., Machilipatnam.
6. One copy to Mr. C. Suryanarayana, Advocate, 1-2-593/50, Srinileyam, Sri Sri Marg, Gaganmahal, Hyderabad - 500 029.
7. One copy to Mr. El Madan Mohan Rao, Addl. CGSC, The Hon'ble
8. One copy to Mr. J. Narasimha Murthy, Member (Judl.) C.A.T., Hyderabad Bench, Hyderabad.
9. One copy to The Hon'ble Mr. R. Palastubramanian, Member (A) C.A.T., Hyderabad Bench, Hyderabad.
10. One Spare Copy.

srr/

True Copy
N. V. Devineni
 Counsel for Applicant

Case No.	RA. 29/90/38 Q.A/657/87
Date	26/12/90
Page	7/19
K	

TELECOMMUNICATIONS : ANDHRA PRADESH

Office of the Chief General Manager, Telecom., A.P., Hyderabad to
Name No. TA/STR/13-7/JSR dated at 10 the 27-6-91.

Sub: Promotion to the cadre of Telephone Supervisor., Case of Sri. J. S. R. Murthy, T. S. Machillipatnam.

In pursuance of the judgement delivered by the CAT Hyderabad in OA. No. 657/1987, the Deputy General Manager (Admn) & the C.G.M. Telecom, A.P., Hyderabad-1 is pleased to promote Smt. J. S. R. Murthy, T.S. Machillipatnam notionaly w.e.f 1-6-1974 in the pay scale of Rs. 425-640 against the supernumerary post sanctioned vide Memo. No. TA/EST/29-29/90-91 dated 25-5-91. The pay of the official will be fixed notionaly from 1-6-1974 but the arrears of pay if any will be confined to the period the official actually worked as Telephone Supervisor.

Lesam 27.6.91
(V. V. SAMBASIVABAO)

Asst. General Manager (Admin)
For C.G.M. 'elecom, A.P.

Copy to 8

1. TDM Vijayawada for information and b/o : He will please refer to the CAT/HD judgement in AP/NO 29/90 in OA:No.657/87 forwarded vide this office Lr.No.TA/LC/136/87/II dated. 8-5-91 and implement immediately orders revising the date of promotion of the official as ordered above. The seniority of the official has already been revised.	Hyderabad- 500 001.
2. A.O. (P) % the TDM/VJ 3. TDE Machilipatnam	
4. Official through TDE Machilipatnam	
5. C.A.O. % the C.G.M. "elecom, A.P Hyd-1	
6. P.F. 7.Guard File 8. Hindi Officer, C.O.	
9. Spare 10. OC	

True Copy
N.D. Divorce
Court for Appeals
Counsel for Plaintiff

midway, $\epsilon = 6.9$ fm $^{-1}$ at the 1/81/3

GLT official

Sri. T. S. R. Murthy

Telephone Supervisor

Machili pat grain

Telephone: 2206

DR. K. R. Maitra
KRISHNA TELECOM. LTD.
MASHIMIPATNAM, SEC. 100.

TELECOMMUNICATIONS:: ANDHRA PRADESH

Ann. A-3

22

Office of the Divisional Engineer Telecommunications, Krishna Telecom Dvn.,
Machilipatnam.

D.P. Memo No. E-366/81-82/27 dated at MPM the 8-11-1981.

18

Consequent on the Rotational promotion of Sri J. Sree Rama-Chandra Murthy, Telephone Operator, as TS-SCO-MPM w.e.f 1-4-76 vide accounts Officer (P) % G.M.T-HYD lr No. A&P/16/9 dated 14-10-1981 his pay is fixed under PR-27 in the scale of Rs.425/-15-560/-EB-20-640 as noted below.

Pay in T.O's Scale.	Pay in SCO's scale.
260-8-300-EB-8-340/-	425-15-560-EB-20-640.
10-360-12-420-EB-12-480/-	Pay is fixed at Rs.425/-
Pay as on 31-3-76 Rs. 384/-	w.e.f 1-4-76 (Pay @ Rs.425/- drawn actually 20-9-76) with DNI 1-3-77 to the stage of Rs.440/-
	1-3-77 --Rs.440/-
	1-3-78 --Rs.455/-
	1-3-79 --Rs.470/-
	1-3-80 --Rs.485/-
	1-3-81 --Rs.500/-

Copy to:

1. Official : J. S. R. Murthy, TS/SCO-MP-7
2. Personal file of the official.
3. Service Book of the Official.
4. JAO(%) % DET-MPM.
5. Pre-check Unit, % DET-MPM.
6. Pay Branch, % DET-MPM.
7. G.M.T-HYD for information.
8. Spare.

DR. S. Venkateswaran
Accounts Officer
O/o. D. E. Telecom.
Krishna Lt. Machilipatnam.

True Copy
N. D. Ravivarma
Conseil for Applicant

13/92

19

23

Ann. A-4

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE TELECOM-DISTRICT MANAGER, VIJAYAWADA-10
No. E-366/90-91/58, dated at VJ-10, the 2-1992

4/3/92

Consequent on promotion of Sri.J.S.R.Murthy, TS Machilipatnam against superanuary post of TS(0) as per judgement of CAT HD vide CGMT HD lr No.TA/STB/13-7/JSR dated 27.6.91 notionally ~~xxxxxxxx~~ w.e.f. 1.6.74 in the pay scale of Rs.425-640 the pay of the official is fixed hereunder. This is incontinuation of AO(Cash) %TDM ELR Memo No.E-18/Genb-corr/T0s/111/90-91/23, dtd 5.10.91 wherein the pay of the official was fixed from 1.6.74 to 31.5.79 i.e. for the period the official was worked under TDM ELR. The fixation is made from 1.6.79 from the date he worked under erstwhile MPM Telecom Division.

Scale of Pay : Rs.425-15-560-EB-20-640

Received on
13/3/92

I.	1.6.79	to 31.5.80	Rs. 500/-
	(leave from 1.6.80 to 1.6.81)	to 5.6.81	Rs. 515/-
	6.6.81	to 31.5.82	Rs. 530/-
	1.6.82	to 31.5.83	Rs. 545/-
	1.6.83	to 31.5.84	Rs. 560/-
	1.6.84	to 31.5.85	Rs. 580/-
	1.6.85	to 31.12.85	Rs. 600/-

From 1.1.86 pay scale revised to Rs.1400-40-1800-EB-50-2300

II. Revised pay scales

On 1.1.86 pay fixed at Rs. 1760/-

1.1.86	to 31.5.86	Rs. 1760/-
1.6.86	to 14.6.87 (leave from 1.6.87 to 14.6.87)	Rs. 1800/-
15.6.87	to 31.5.88	Rs. 1850/-
1.6.88	to 31.5.89	Rs. 1950/-
1.6.89	to 31.5.90	Rs. 2000/-
1.6.90	to 15.10.90	Rs. 2000/- in the

III. 26 yrs. promotion under BCR Scheme w.e.f. 16.10.90. The official worked for 16 yrs. in the pay scale of Rs.1600-50-2300-EB-50-2660.

On 16.10.90 pay fixed at the stage of Rs.2100/- with DNI on 1.10.91 to the stage of Rs.2150/-

From 1.10.91 Rs.2150/-

As per orders contained in CGMT AP HD lr No.TA/STB/13-7/JSR dtd 27.6.91, the arrears of pay will be confined to the period the official actually worked as Telephone Supervisor. The official is working as TS from 9.1.85.

Encl: Pay fixation memo on
1.1.86 and ~~xxxxxxxx~~

16.10.90

Copy to: 1. Official thro' SDOP MPM. 2. PF/SB of the official

3. ACAO(Cash) %TDM VJ/AAO(Pay-II) %TDM VJ. 4. Spare.

ASST. CHIEF ACCOUNTS OFFICER (CAS)
%TELECOM DISTRICT MANAGER, VJ-10

(20)

Copy of Mof (MoE) O.M. No. 7 (52)-E-III (26 dt. 27.5.88)

(2) Time-limit to opt for the revised scale of pay subsequent to 1-1-1986, further extended up to 31-12-1987, with 20% pay fixation benefits.—In accordance with the provisions contained in Rule 9 of the Central Civil Services (Revised Pay) Rules, 1986, where a Government servant continues to draw his pay in the existing scale and is brought over to the revised scale from a date later than the 1st day of January, 1986, his pay from the later date in the revised scale is to be fixed under Fundamental Rules and not under Rule 7 of the said rules. On a representation from the Staff Side (JCM), Government *vide* this Ministry's O.M. No. 7 (52)-E. III/86, dated the 22nd December, 1986 [*vide Decision (1) above*], decided that the benefit of fixation of pay under Rule 7 of the Central Civil Services (Revised Pay) Rules, 1986, may also be allowed to Government servants who elect to come over to the revised scales from the date of their next increment falling after 1-1-1986, but not later than 31-12-1986, in respect of posts held by them on 1-1-1986.

2. The Staff Side in the National Council (JCM) have again represented that the time-limit for opting for the revised scale of pay from a date subsequent to 1-1-1986, may be extended further beyond 31-12-1986 and up to 31-12-1987, to rectify the anomalous position that still existed in several cases. The matter has been examined in consultation with the Department of Personnel and Training and has also been discussed in the National Council (JCM).

3. In exercise of the powers available under Rule 13 of the Central Civil Services (Revised Pay) Rules, 1986, the President is pleased to decide that the pay of Government servants drawing their increments annually who opt to switch over to the revised scale of pay from the date of their next increment or subsequent increment falling after 1-1-1986, but not later than 31-12-1987, in respect of the post held by them on 1-1-1986, shall also be fixed in accordance with the provisions of Rule 7 of the Central Civil Services (Revised Pay) Rules, 1986.

4. The option in the format appended as the Second Schedule to Central Civil Services (Revised Pay) Rules, 1986, may be exercised by 31-8-1988. The option once exercised shall be final. The option available under these orders can be exercised afresh even by those Government servants who have already exercised option prior to the issue of these orders to switch over to the revised scales. However, the pay of Government servants who still opt to switch over to the revised scales from any date subsequent to 31-12-1987, shall be fixed in those scales under Rule 9 of the Central Civil Services (Revised Pay) Rules, 1986.

[G.I., M.F., O.M. No. 7 (52)-E. III/86, dated the 27th May, 1988.]

True Copy
N.D. Sivinathan
App. Govt
Guru Dev

(21)

Ann A-6 25

Statement of fixation of pay under Central Civil Service (Revised Pay), Rules, 1936.

1. Name of the Government Servant : M Lakshmanan - Nagyulu

2. Designation of the post in which pay is to be fixed as on 1st January, 1986 : Telephone Super VI
1-6-87

3. Whether substantive or officiating : Officiating

4. Existing scale/scales of the Posts (Where there is more than one scale and the scales are merged in a single revised scale, the particular scale in which the officer was drawing pay should be specified) : June 1987

425 - 1 - 560 EB - 640 S

5. Existing emoluments as on 1st January, 1986 :

RA 640-00

a) Basic pay (excluding ad-hoc increment on account of stagnation at the maximum of the existing scale) :

163-20

b) Special Pay under rule 7(1) (8) :

c) Dearness Pay, ADA, Ad-hoc DA appropriate to basic pay and Special Pay under 7(1)(B) and NPA at the index average 608 (1960=100) :

d) Amount of first and second instalment of interim relief admissible on the basic pay, Special Pay under rule 7(1)(B) & NPA :

124-00

Total existing emoluments (a) to (d) :

1727-20

6. 20% of basic pay subject to minimum of Rs. 75/-

128-00

7. Total of items 5 & 6 :

1855-50

8. Revised scale corresponding to existing scale/scales shown against item 4 above :

1400-40 18a EB - 60 2300 S

9. i) Revised Pay as fixed under Sub-rule (1)(A) or 1(B) or 1(C) or 1(D), of Rule 7 at the stage in the Revised Scale next above the amount against item 7 above :

1900-00

ii) Special Pay in the revised scale, if any (Rule 7 (1)(C) refers) :

iii) Revised NPA, if admissible (Rule 7(1)(D) refers) :

1900-00 S

10. Revised emoluments (total of item 9(i)(ii) and (iii))

1900-00 S

11. Increase in emoluments (item 10 - item 5) :

12-80

(22)

1900

12. Revised emoluments to be shown as :

- i) Revised Pay : -
- ii) Special Pay-Rule 7(1)(C) refers : -
- iii) Personal Pay-Note 2 under Rule 7(1) refers : -
- iv) NPA-Rule 7(1),(D) refers : -

13. i) Number of increments to be allowed on account of bunching (Note 3 below Rule 7(1)) : -

- ii) Stepped up revised pay : -

14. Stepped up revised pay under Note 4 below Rule 7(1) (Indicate also the name and pay fixed for the Junior) : -

15. Increment allowed :

- a) Under third proviso to Rule 8 : -
- b) Under fourth proviso to Rule 8 : -

16. Amount of personal pay (if the revised pay is less than the existing emoluments plus personal pay the difference to be allowed personal pay over and above the revised pay (Note 5 under Rule 7(1)) : -

17. Whether the revised pay in the officiating post is less than the revised pay in the substantive post vide Rule 7(2) : -

18. If answer to 17 is 'Yes', the final revised pay under Rule 7(2) : -

19. Date of next increment under Rule 8 : -

1-6-88 S.

20. Any other relevant information : The official is entitled to increment w.e.f 1-6-88 at Rs 1950/- This is in accordance with the pay fixation memo dated 1-1-88. The official has exercised his option by the application of the revision of the revised pay by the office dated 24-6-88. The official is entitled to the revised increment of Rs 1950/- due to this revised fixation of pay w.e.f 1-6-88.

Date : The fixation of pay w.e.f 1-6-88
1-1-86 - 600
1-6-86 - 7

Use of the Accounts Officer
(Internal Audit) 31-5-87 - 620

Signature of the Head of Office
F. O. G. I. S. With stamp
Date 1-6-88

True copy
N. R. Srinivasan
Counsel for Appellant

From

J.S.R. Murthy,
C.T.S(O),
Telephone Exchange,
MACHILIPATNAM.

To

The General Manager,
Telecom District,
VIJAYAWADA-10.

(THROUGH PROPER CHANNEL)

Sir,

Sub: Stepping up of my pay from Rs.1900/- to
Rs.1950/- from 1-6-1988 equal to my junior
Sri M.L. Acharyulu, T.S., Machilipatnam.

- - -

This is to request your good offices to draw your
kind attention towards the following few lines for
consideration and early favourable action.

On 1-6-1988 my pay was fixed at Rs.1900/- as per
TDM Vijayawada Lr. No. E-366/90-91/58, dt. at VJ the 4-3-1992
whereas the pay of my junior namely Sri M.L. Acharyulu, T.S.,
Machilipatnam was fixed at Rs.1950/- with effect from the
same date as per the revised option exercised by the
official. As my case related to stepping up of pay
at that time was pending in C.A.T., Hyderabad and the
delivery of judgement is due, I could not able to exercise
the same revised option as exercised by my junior, vide
D.G., Telecom N.D.Lr. No. 1-4/86-PC/PAT dated at New Delhi
the 24-6-1988. Because of this my junior namely
Sri M.L. Acharyulu was allowed to draw higher scale of
pay than me. Hence, it is requested your authority to
please look into the matter and allow me to exercise the
revised option through belated submission to get the benefit
of pay which was extended to my junior with effect from
1-6-1988.

Thanking you Sir,

Machilipatnam,
28-4-1995.

True Copy
M. D. Srinivas
Conseal for Abhisek V.S.
Yours faithfully,
(J.S.R. MURTHY)

प्रभ अध्यार - ८

Cont - 7

Ann. A-8

दूरसंचार विभाग
Department of Telecommunications (24)

फैक्ट :

From GENERAL MANAGER
TELECOM DISTRICT
VIJAYAWADA - 10

सेवा में

To Sri J.S.R.Murthy T.S(Rtd)
D.no. 20-565-7
Paraspet, Machilipatnam

→ संवाद संख्या No.E. 366/V/93-94/TO/25 दिनांक Dated at Vj the 28-2-97.

Sub:- Stepping of pay with Sri M.L. Acharyulu TS(rtd)
Machilipatnam...reg.

Reg:- Your application dated 28-4-95.

2) SDO-Phones, MPM I.R no QS-123/95-96/224 dttd 10-5-95

With reference to your ~~xxx~~ application cited above
it is ~~intimate~~ that your case for steppingup of pay cannot
be considered as the case is not fulfilling the conditions
which are required for stepping up of pay and also the
option submitted after due date cannot be considered please.

Adt-3144
ASSISTANT GENERAL MANAGER (ADMN)
% GENERAL MANAGER TELECOM DISTRICT
VIJAYAWADA-10

Copy to:-

SDO, Phones Machilipatnam for information please.

True copy

*N.R. Srinivasan
Comptroller Admin
Comptroller Admin*

Telecommunications: Andhra Pradesh
Office of the Telecom District Manager, West Godavari, ELURU-534050

E18/Gen-corr/TOS/III/90-91/23 dated at ELR 5-7-91

Consequent on promotion of Sri J.S.R. Murthy to ELR as TS (O) vide EXC
KMR COMP-HD LrNo TA/STB/13-7/JCR dated at HD 27-6-91 N.E.F 1-6-1974 in the
pay scale of Rs 425-640 against the supernumerary post
sanctioned vide Memo No TA/EST/29-29/90-91 dated 25-6-91. The pay of the
official is fixed at Rs 425/- N.E.F 1-6-74 with DNI on 1-6-75 at
Rs 440/-.

TO SCALE

260-8-300-EB-8-340-10
-360-12-420-EB-12-430

Pay as on 31-5-74 = 360

Notional increment = 12

372-----

TS SCALE

425-15-560-EB-20-640

425/-

The pay of the official is fixed at
Rs 425/- according to FR22Ia(1) with
DNI on 1-6-75 at Rs 440/- unless otherwise
altered.

1-6-74 to 31-5-75 ----- 425/-
1-6-75 to 31-5-76 ----- 440/-
1-6-76 to 31-5-77 ----- 455/-
1-6-77 to 31-5-78 ----- 470/-
1-6-78 to 31-5-79 ----- 485/-

This is in supercession of this office Lr No
E84/76-77/40 dt 16-10-76

Accounts officer (cash)
O/O TDM W.G Dt Eluru.

Copy to: 1. Official

2. P.F of official

3. S.S (Pay) O/O TDM W.G Dt

Eluru - He may draw arrears upto date
of relief i.e 31-5-79 and revised L.P.C.
may be sent to TDM Vijayawada.

4. TDM - VJ

5. COMP - HD

6. Spare

True Copy
N.D. [Signature]

Ann. Ag
29

30

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH.

0. AREGD. NO. 2928/97

Date: 15/9/97

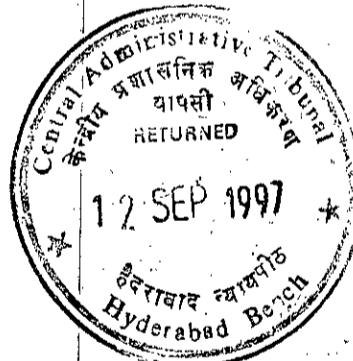
To

Mr. N. R. Srinivasan, Advocate
Sir,

I am to request you to rectify the defects mentioned below in your application within 14 days from the date of issue of this letter, failing which your application will not be registered and action under Rule 5 (4) will follow.

1. 3 more rupees of stamp court fee stamp to be affixed to the Vakalat.

Supplied via
Email
N. R. Srinivasan
Counsel for Appellant



Ans
DEPUTY REGISTRAR (JUDL)

On
12/9/97

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD. 3/

MA.No.1256/97 in OA.No.1256/97

Between:

J.S.R. Murthy

Dated: 8.6.1998.

.. Applicant.

And

1. The Secretary, Deptt. of Telecom.,
Ministry of Communications,
Sanchar Bhawan, 20, Ashoka Road,
New Delhi-001.
2. The Chief General Manager, Telecom,
A.P.Telcom Circle, Abids, Hyderabad.
3. The General Manager, Telecom,
Vijayawada - 010.

.. Respondents.

Counsel for the Applicant

: Mr.N.R.Srinivasan

Counsel for the Respondents

: Mr.J.R.Gopal Rao

CORAM:

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

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

* * *

THE TRIBUNAL MADE THE FOLLOWING ORDER:

Heard Mr. N.R.Srinivasan for the applicant and Mrs.Sakthi for Mr. J.R.Gopal Rao for the respondents.

2. The applicant was given seniority above that of his junior when they were working in the grade of Rs.425-640/- w.e.f. 1.6.97 onwards. The applicant submits that his pay is not fixed on par with his junior on the basis of the seniority. Hence his pay was fixed after the fixation of his seniority some time in 1992. At that time the applicant did not question the validity of his fixation of his pay less than his junior. The applicant submits that he came to know of the fixation of his pay lower than his junior only when his junior retired in November, 1993. He submitted a representation in April, 1995 for fixation of his pay on par with his junior. He approached this Tribunal on 11.9.97 when he received a reply rejecting his case. It is not understood why the applicant has not taken action immediately in 1993 itself when he came to know that his junior was drawing more pay than him. Further when he has not received any reply to his representation submitted in 1995 he did not approach the judicial forum if no reply is received to his representation in time. He approached this Tribunal on 11.9.97 belatedly.

3. The learned counsel for the respondents submit that the applicant cannot claim any relief as this application has been filed belatedly and if the applicant is aggrieved by wrong fixation of his pay he should have approached this Tribunal some time in 1992 itself. To the question why no reply was given to the applicant when he filed representation in 1995 the learned counsel for the respondents could not give any convincing reply. The reason for the belated issue of the reply is not fully answered.

4. The payment of pay and granting of increment is a continuous process. Hence under the circumstances quoted above the MA is disposed of as below:-

The applicant if he succeeds in this OA is eligible for fixation of his pension on the basis of the revised pay only from the date of filing of this OA i.e., from 11.9.97 onwards as the applicant had already retired from service in 1995.

The MA is ordered accordingly.

ADMIT.

Prabhakar
16-6-97
Deputy Registrar

Copy to:-

1. The Secretary, Dep't. of Telecom., Ministry of Communications, Sanchar Bhavan, 20, Ashoka Road, New Delhi.
2. The Chief General Manager, Telecom., A.P.Telcom Circle, Abids, Hyderabad.
3. The General Manager, Telecom., District, Vijayawada-010.
4. One copy to Mr.N.R.Grinivasan, Advocate, CAT., Hyderabad.
5. One copy to Mr.J.R.Gopala Rao, Sr.CGSC., CAT., Hyderabad.
6. One copy to duplicate.

SRR

II COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 8/6/98

ORDER/JUDGMENT

~~M.A/R.A/C.P. NO.~~ 1256/97

in

~~D.A. NO.~~ 1256/97

~~ADMITTED AND INTERIM DIRECTIONS
ISSUED~~

~~ALLOWED~~

~~DISPOSED OF WITH DIRECTIONS~~

~~DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~DISMISSED FOR DEFAULT~~

~~ORDERED/REJECTED~~

~~NO ORDER AS TO COSTS~~

YLKR

केन्द्रीय अधिकारी अधिकारण
Central Administrative Tribunal
श्रेष्ठ / DESPATCH

15 JUN 1998

हैदराबाद बायपील
HYDERABAD BENCH

34

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD**

O.A.No. 1256 of 1997

Between:

J.S.R. Murthy,

...Applicant

And

The Secretary, Department of Telecom,
Rep. The Union of India
Sanchar Bhavan, New Delhi & 2 Others.

...Respondents

REPLY AFFIDAVIT ON BEHALF OF THE RESPONDENTS

I, G.V.R. Setty, S/o G. Govinda Setty aged 51 years R/o. Hyderabad solemnly affirm and state on oath as follows.

1. I am working as Assistant General Manager(Legal) in the office of the Chief General Manager Telecom., A.P.Circle, Hyderabad. I am well acquainted with the facts of the case. I am filing this affidavit on behalf of the respondents and I am authorised to do so. All the material averments save those that are expressly admitted herein are denied and the applicants are put to strict proof of the same.
2. It is submitted that the applicant filed this OA seeking a relief of (i) calling for the records relating to the 3rd Respondent's impugned Lr.No.3-366/V/93-94/TO/25 dated 28.2.1997 (Annex. A-8 of the OA) and to set-aside and quash the same declaring that the applicant is entitled to exercise revised option in terms of Ministry of Finance O.M. No.7(52)-E-III/86 dated 27.5.1988 (Annex. A-5 to the OA) notwithstanding the expiry of the time limit fixed thereunder in view of the altered pay position of the applicant after the judgement of the Tribunal in R.P.No.29 of 1990 in OA No. 657 of 1987, and (ii) consequently to direct the 3rd Respondent to refix the pay of the applicant by obtaining

ATTESTOR

विधि विविकारी

LAW OFFICER

मु. म. प्र. दूरसंचार अ०.प्र का कार्यालय
O/o. C.G.M. Telecom, A.P.
हैदराबाद/Hyderabad 500 001

DEPONENT

3/13
G. V. R. SETTY

A.G.M. (Legal)

for C.G.M. Telecom, A.P. Hyd.

revised option from the applicant in terms of the said O.M. dated 27.5.88 (Annex. A-5) and to fix the pay of the applicant accordingly with all consequential benefits.

3. It is submitted that the applicant joined on 15.7.59 in the former Hyderabad Telegraph Engineering Division at Nanded. On bifurcation he opted for the residuary Hyderabad Division. He was subsequently posted to Karimnagar. On bifurcation of Hyderabad Division he was again allotted to Vijayawada Division on his option. Originally the applicant's seniority was fixed as per the date of confirmation. But in accordance with the decision of the Hon'ble Supreme Court, the applicant's seniority was fixed at Sl.No.526 and the seniority of one Sri M.Lakshminacharyulu at Sl.No. 535. However, in view of the earlier (pre-revised) seniority as on 1.1.1977, Sri M.Lakshminacharyulu who was shown above the applicant was promoted as Telephone Supervisor(SCO) w.e.f. 1.6.74. After revision of seniority the applicant sought promotion and consequential benefits on par with his junior Sri M.Lakshminacharyulu through OA 657/87 from 1.6.74 as per revised seniority lists. Initially the OA was dismissed but later on filing R.P.No.29 of 1990 in the said OA, the Tribunal vide its order dated 26.12.1990 held that

"If the respondents had revised the seniority list within a reasonable time, the applicant would have been promoted on 1.6.74. The petitioner is entitled to his seniority fixed on that date with fixation of pay on that date."

The orders of the Hon'ble Tribunal were implemented vide 2nd Respondent's Memo dated 27.6.91 (Annex A-2 of the OA) and consequential benefits such as revision of pay, were allowed to him.(Annex A-3 of the OA). The pay of the applicant was fixed at Rs.425/- as on 1.6.74, at Rs.1760/- as on 1.1.86 (Annex A-4 of the OA) on


ATTESTOR

विष्णु आदित्यरा

LAW OFFICER

मु. म. प्र. दूरसंचार अौ.प्र. का कार्यालय
O/o. C. G. M. Telecom, A. P.
हैदराबाद/Hyderabad-500 001.


DEPONENT
G. V. R. SETTY
A.G.M. (Legal)
for C.G.M. Telecom, A.P., Hyd.

implementation of IV CPC. On implementation of BCR Grade-III the pay of the applicant was fixed at Rs.2100/- w.e.f. 16.10.90 (date of implementation of the Scheme) and at Rs.2150/- w.e.f. 1.10.91, the date of next increment as per his pay option on promotion.

4. It is submitted that the Ministry of Finance(Dept. of Expenditure) vide its O.M. No.7(52)-E.III/86 dated 27.5.1988 (Annex A-5 of the OA) provided for an opportunity to the employees to switch over to the revised pay scales from the next increment date falling after 1.1.86, but not later than 31.12.87 in respect of the post held by them on 1.1.86 with the benefit of Rule 7 of CCS(RP) Rules, 1986 instead of FR. It is further laid down that such option may be made before 31.8.1988. **The applicant did not exercise any such option whereas Sri M.Lakshminacharyulu, with whom the applicant was seeking parity, exercised his revised option as per the above OM and chose to switch over to the revised scale of pay w.e.f. 1.6.87 instead of his original option for fixation w.e.f. from 1.1.86.** Consequently the pay of Sri M.Lakshminacharyulu, which was originally fixed at Rs.1760/- AS ON 1.1.86, was refixed at Rs.1900/- as on 1.6.87 as per revised option with Date of Next Increment changed to 1.6.88 vide Annex A-6 of the OA.

5. It is submitted in reply to Para 5.4 of the OA that the applicant has voluntarily abdicated his right to exercise option. The O.M. dated 27.5.88 is applicable to those who opted for such switch over to pay scales.

6. It is submitted that the applicant's statement at para 5.5 that he could not exercise such option because of pendency of OA 657 of 1987 is absolutely incorrect and misleading. The earlier OA is for the purpose of claiming promotions from 1.6.74 the day on which his junior, Sri M.Lakshminacharyulu was promoted and for consequential

Verdict
ATTESTOR

विवर बाबकारी

LAW OFFICER

శ. మ. ప. దూరసంచార థాం.ప్ర కా కార్యాలయ
O/o. C. G. M. Telecom, A. P.
హైదరాబాద్/Hyderabad-500 001.

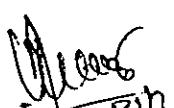
Verdict
DEPONENT

2113
G. V. R. SETTY
A.G.M. (Legal)
for C.G.M. Telecom, A.P. Hyd.

benefits. That has nothing to do with seeking revised option as per the O.M. dated 27.5.88 and the applicant is advancing incoherent reasoning for covering his delayed option. Therefore it is submitted that the impugned order of R-3 vide his letter dated 28.2.97 is neither arbitrary nor unjust.

7. It is submitted in reply to para 5.6 that there is no connection between his earlier OA and his not opting for revised pay fixation as per O.M. dated 27.5.88. The seniority of the applicant, his promotion etc., are settled vide RP No.29/1990 in OA 657/87. It is submitted that the averments of the applicant are totally false in as much as they did not infringe the right of the applicant to opt for pay fixation under O.M. dated 27.5.88. The OA 657/87 & R.P.No.29/90 in OA 657/87 were for refixing seniority in the cadre of Telephone Operators. The Ministry of Finance's order dated 27.5.88 is to provide an opportunity to the employees to switch over to the revised pay-scales from a date later than 1.1.86. Such an order was necessitated because in accordance with the provisions of Rule 9 of CCS (RP) Rules, 1986, where a government servant continues to draw his pay in the existing scale and is brought over to the revised scale from a date later than the 1st day of January, 1986, his pay from the later date in the revised scale is to be fixed under FRs and not under Rule 7 of the said CCS(RP) Rules. On representation from the Staff side in JCM, the Ministry of Finance vide letter dated 22.12.1986 decided to allow such government servants who came over to the revised scales from the date of their next increment falling after 1.1.86. The reasoning given in the O.M. dated 27.5.88 is self-explanatory. This has nothing to do with the pendency of OA or otherwise. It did not bar the applicant to exercise such option. **There is no reason for the applicant to have not opted for such switch over.**

8. It is submitted in reply to para 5.7 of the OA that the applicant's reliance on *Anil Kr. Sen Vs. Union of India & Others (1997) 35 ATC 5488* is highly misplaced and


ATTESTOR

विश्व आषकारी

LAW OFFICER

ज. म. प. ट्रायेंस्चार आ०.प्र. का कार्यालय
O/o. C. G. M. Telecom, A. P.
Hyderabad/Hyderabad-500 001,


DEPONENT

31/3
G. V. R. SETTY
A.G.M. (Legal)
for C.G.M. Telecom, A.P. Hyd.

In The Central Administrative
Tribunal, Hyderabad.
O.A. No. 1256/97.



Reply Statement

Received
N. S. Srinivas
3/2/99

Piled by: T.R. Gopala Rao
Addl C.A.S.C.

may be filed
on
7/4/99

misconceived. In the said case, it is evident from the extracted portion of the judgement that the applicant therein exercised option in accordance with rules. As in the present case, no separate order allowing Govt. employees to make fresh option did come then. As such there is no discussion of exercise of fresh option. Whereas in the instant case, the order dated 27.5.88 was very much available before the RP No.29/1990 in OA 657/87 was disposed. The applicant did not seek relief to the extent of extending the benefit of the Ministry of Finance O.M. dated 27.5.88 as Sri M.Lakshminacharyulu's pay as per revised option was done as on 28.11.88 (Annex A-6 of the OA). The applicant's reliance of the case-law cited above is not only misplaced but also misleading.

In view of what is stated above, it is prayed that the applicant did not make any case either on law or on facts and it is prayed that the Hon'ble Tribunal may be pleased

Deponent 3/13
DEPONENT

Solemnly sworn and signed
before me on this 28th day
of March, 1999 at Hyderabad.

G. V. R. SETTY
A.G.M. (Legal)
for C.G.M. Telecom, A.P. Hyd.

ATTESTOR

विधि अधिकारी

LAW OFFICER

1. म. प्र. दुर्संचार अ.प्र का कार्यालय
O/o, C. G. M. Telecom, A. P.
Hyderabad/Hyderabad-500 001.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.1256/97.

Dt. of Decision : 12-4-99.

J.S.R.Murthy

.. Applicant.

Vs

1. The ~~Exe~~ Secretary,
Dept. of Telecom, Min. of
Communications (Rep. by UOI),
Sanchay Bhawan, 20, Ashoka Road,
New Delhi-110 001.
2. The Chief General Manager,
Telecommunications, A.P.Telcom
Circle, Abids, Hyderabad-1.
3. The General Manager, Telecom
District, Vijayawada-10. .. Respondents.

Counsel for the applicant : Mr.N.R.Srinivasan

Counsel for the respondents : Mr.J.R.Gopal Rao, Addl.CGSC.

CORAM:-

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

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

R

..2/-

ORDER

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

Heard Mr.N.R.Srinivasan, learned counsel for the applicant and Mrs.Sakthi for Mr.J.R.Gopala Rao, learned counsel for the respondents.

2. The applicant in this OA joined as Telephone Operator on 15-07-1959 in the former Hyderabad Telegraphs Engineering Division at Nanded. He was repatriated to the Hyderabad Division and posted at Karimnagar later. When the Hyderabad Division was bifurcated he opted for Vijayawada Division and he was repatriated to Vijayawada Division. It is stated that the seniority of such optees is protected and they are treated as though they are originally recruited in the Division to which they stand repatriated by virtue of their option.

3. The seniority of Telephone Operators recruited before 22-12-1959 is to be determined according to the length of service. However, the case of the applicant was decided on the basis of his date of confirmation. That resulted in his juniors being shown senior to him. The applicant filed OA.657/87 on the file of this Bench which was dismissed. However he filed a Review Petition No.29/90 in OA.657/87 on the file of this Bench and that review petition was disposed of to the effect "that the petitioner is entitled to be promoted w.e.f., 1-6-74 and he is entitled to his seniority fixed on that date with fixation of pay on that basis". Accordingly, the case of the applicant was considered and he was fixed senior to one Mr.M.Lakshmanacharyulu, whose seniority position was 535. The seniority position of the applicant was shown at 526. The applicant requested for stepping up of his pay on par with his junior Mr.Lakshmanacharyulu.

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..3/-

and to that effect he submitted ^a representation dated 28-04-95 to the General Manager, Telecom District, Vijayawada and that representation was rejected by the impugned order No.E.366/V/93-94/TO/25 dated 28-02-97 (Annexure-8).

4. This OA is filed to set aside the impugned order No.E.366/V/93-94/TO/25 dated 28-02-97 (Annexure-8) of R-3 and for a consequential direction to the respondents that the applicant is entitled to exercise revised option in terms of Min. of Finance O.M.No.7(52)-E.III/86 dated 27-5-88 (Annexure-5) notwithstanding the expiry of the time limit fixed thereunder in view of the altered pay position of the applicant after the judgement of the Tribunal in R.P.No.29/90 in OA.657/87 and for a further consequential direction to R-3 to refix the pay of the applicant by obtaining revised option from the applicant in terms of the O.M.No.7(52)-E.III/86 dated 27-5-88 (Annexure-5) and to fix his pay accordingly with all consequential benefits including retirement benefits.

5. A reply has been filed in this OA. The respondents rely on the O.M. of the Finance Ministry No.7(52)-E-III/86 dated 27-05-88 (Annexure-5) and submit that the options to come over to the revised pay scale from the next increment date after 1-1-86 should be given before 31-8-88 in respect of the post held by them on 1-1-86. The applicant did not exercise any such option whereas his junior Mr.Lakshmanacharyulu with whom the applicant was seeking parity, exercised his option as per ^b above chose to switch over to the OM and ^{revised} scale of pay w.e.f., 1-6-87 instead of his original option for fixation w.e.f., 1-1-86. Hence, the pay of Mr.Lakshmanagharyulu was refixed at Rs.1900/- as on 1-6-87 as per his option. The applicant even though he was in the cadre of Telephone Operator as on 1-1-86 he did not give his option to fix

his pay in the revised pay scale from the date when his increment fell in the earlier scales of pay of 3rd Pay commission. The applicant cannot now ask for refixation of pay by giving a fresh option at this stage. He failed to do it within the date prescribed by the OM dated 27-5-88 and hence he is not eligible for refixation of pay.

6. The applicant came to know of his seniority position above Mr.Lakshmanacharyulu only because of the direction given in R.P.29/90 in OA.657/97 which was disposed of on 26-12-90. Thereafter his seniority was shown and his position in the post as Telephone Operator is decided on the basis of his fixation of his seniority and also his promotion as Telephone Supervisor. When the OM dated 27-5-88 was issued he was not aware whether his seniority will be refixed and also his promotion to Telephone Supervisor on the basis of refixation of seniority as desired by him. The fixation of seniority above that of Mr.Lakshmanacharyulu and his promotion as Telephone Supervisor is a later incident that had happened after the expiry date viz., 31-8-88. If that be the case it is too much for the respondents to deny his pay fixation just because he did not give his option before 31-8-88. Just because he was in the cadre of Telephone Operator as on 1-1-86 it ~~is~~ no way means he should have given his option as per OM for refixation of higher scale on par with his juniors on the basis of the refixation. In that view we feel that the applicant has correctly given his option after the RP was ~~disposed of~~ issued and he was promoted as Supervisor. But that option it appears was rejected on the ground that he ~~xxxx~~ has not opted to come to the 4th Pay commission scales of pay from a date when his increment fell in the 3rd pay commission scales of

pay before 31-8-88. Such a view taken in our opinion cannot be considered as an appropriate decision. Hence that decision has to be set aside. An opportunity is to be given now to the applicant to opt ~~for~~ to come to the revised pay scale from a date which is advantageous to him. If such an option was given his pay in the scale of pay of Supervisor as per 4th Pay commission scales of pay should be fixed as per his option and on that basis his further consequential arrears as well as fixation of his final settlement due should be decided. However an order was passed in MA.1256/97 in this OA on 8-6-98. The operative portion in the order in the MA reads as below:-

"The applicant was given seniority above that of his junior when they were working in the grade of Rs.425-640/- w.e.f., 1-6-97 onwards. The applicant submits that his pay is not fixed on par with his junior on the basis of the seniority. Hence, his pay was fixed after the fixation of his seniority some time in 1992. At that time the applicant did not question the validity of his fixation of his pay less than his junior. The applicant submits that he came to know of the fixation of his pay lower than his junior only when his junior retired in November, 1993. He submitted a representation in April, 1995 for fixation of his pay on par with his junior. He approached this Tribunal on 11-9-97 when he received a reply rejecting his case. It is not understood why the applicant has not taken action immediately in 1993 itself when he came to know that his junior was drawing more pay than him. Further when he has not received any reply to his representation submitted in 1995 he did not approach the judicial forum if no reply is received to his representation in time. He approached this Tribunal on 11-9-97 belatedly.

The learned counsel for the respondents submit that the applicant cannot claim any relief as this application has been filed belatedly and if the applicant is aggrieved by wrong fixation of his pay he should have approached this Tribunal some time in 1992 itself. To the question why no reply was given to the applicant when he filed representation in 1995 the learned counsel for the respondents could not give any convincing reply. The reason for the belated issue of the reply is not fully answered.



44

The payment of pay and granting of increment is a continuous process. Hence under the circumstances quoted above the MA is disposed of as below:-

The applicant if he succeeds in this OA is eligible for fixation of his pension on the basis of the revised pay only from the date of filing of this OA i.e., from 11-9-97 onwards as the applicant had already retired from service in 1995."

In view of the directions given in the MA the applicant is eligible for fixation of his pension on the basis of the revised pay only from the date of filing of this OA i.e., 11-9-97.

7. In the result, the following direction is given:-

The impugned letter No.E.366/V/93-94/T0/25 dated 28-2-97 is set aside. An option should be asked from the applicant for fixation of his pay in the 4th Pay Commission scales of pay on his promotion as Supervisor. On that basis his pay should be fixed and thereafter following that pay fixation his pension should be fixed. The applicant is eligible for that revised pension on the basis of the revised pay only from the date of filing of this OA i.e., 11-9-97 onwards. The applicant is not entitled for any other benefits other than the benefits mentioned above.

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

B.S. JAI PARAMESHWAR
(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)
12.4.99

R. RANGARAJAN
(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 12th April 1999.
(Dictated In the Open Court)

spr

*Amulya
verdict*

COPY TO:-

1. H.D.H.N.C
2. H.N.R.P. M.(A)
3. H.D.S.T.P. M.(J)
4. B.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)

DATED: 12-4-99

ORDER / JUDGEMENT

M.D./R.A./C.P. No.

IN

C.A. No. 1256/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED.

C.P. CLOSED.

R.A. CLOSED.

DISPOSED OF WITH DIRECTIONS.

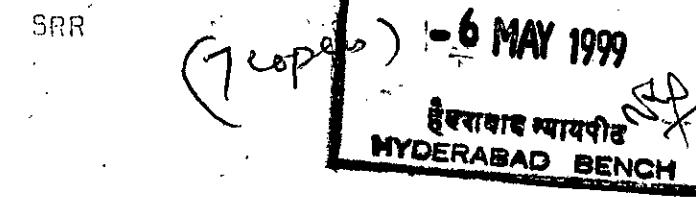
DISMISSED.

DISMISSED AS WITHDRAWN.

ORDERED/REJECTED.

NO ORDER AS TO COSTS.

S.R.R.



IN THE CONTROL AND DISPUTES TRIBUNAL, GOVT. OF INDIA.

11.11.1957 to 11.11.1957

Complaint
J. S. R. Rao vs

Complaint No. 1000.
.. AGRA DIST.

1. The Secretary, Govt. of India, Ministry of Communications, Bhawan Bhawan, 21, New Delhi, New Delhi-11.
2. The Collector of Central Excise, Telangana, Hyderabad Circle, Hyderabad, Hyderabad.
3. The Central Excise, Telangana, Hyderabad - 610.



.. Hyderabad.

Complaint for the Applicant
Control and Disputes
Court

1. Mr. J. S. Rao vs
2. Mr. J. S. Rao vs

THE APPLICANT MR. J. S. RAO, NO. 1000 (1)
THE APPLICANT MR. J. S. RAO, NO. 1000 (2)

THE APPLICANT AND THE DEFENDANT STATE:

Filed Mr. J. S. Rao vs for the applicant and Mr. J. S. Rao vs for Mr. J. S. Rao as the respondent.

2. The applicant was given authority above that of his junior whom they were working in the case of C. 425-641/- U.O.T. 1.1.1957 onwards. The applicant submits that his pay is not fixed in line with his junior on the basis of the authority. Since his pay was fixed after the fixation of his authority was till in 1952. At that time the applicant did not question the validity of his fixation of his pay less than his junior. The applicant submits that he came to know of the fixation of his pay less than his junior only when his junior retired in November, 1953. He exhibited a representation to A.D.I. 1953 for fixation of his pay on the basis of his junior. He approached the tribunal on 11.11.57 when he received a reply rejecting his case. It is not in accordance with the law that he has not taken action immediately in 1953 itself when he came to know that his junior was drawing more pay than him. Further when he has not received any reply to his representation he approached the tribunal in 1953 by the date of presentation of his representation. He approached the tribunal on 11.11.57 reluctantly.

3. The learned counsel for the respondent submit that the application comes within the call of the application has been filed belatedly and if the applicant is allowed by virtue of fixation of his pay he should have approached the tribunal soon after in 1952 April 19. To the question why he failed to approach to the tribunal when his representation was filed in 1953 the learned counsel for the respondent said he was given only conveyance reply. The reason for the belated filing of the reply is not fully explained.

1. The learned counsel for the respondent submit that the application comes within the call of the application has been filed belatedly and if the applicant is allowed by virtue of fixation of his pay he should have approached the tribunal soon after in 1952 April 19. To the question why he failed to approach to the tribunal when his representation was filed in 1953 the learned counsel for the respondent said he was given only conveyance reply. The reason for the belated filing of the reply is not fully explained.

11.11.

(C) 1957 GOVT. OF INDIA
BY GOVT. OF INDIA
NOTICE

4. The payment of pay and grantin of increment is a continuous process. Hence under the circumstances quoted above the P.M. is directed to be below:-

The applicant if he succeeds in this O. is eligible for fixation of his pension on the basis of the revised pay only from the date of filing of this O.I.O., from 11.9.77 onwards as the applicant had already received it in service in 1995.

The O. is ordered accordingly.

U.M.I.

मान्यता की
CERTIFIED TO BE TRUE COPY

Dushyant

मान्यता की
O.I.O. No. 11
केन्द्रीय सरकार
Central Admin. Board

SD/- R. K. K
Deputy Registrar

Copy to:-

HYDERABAD 4, 49

1. The Secretary, Dep't. of Telecom., Ministry of Communications, Banchor Bhawan, 20, Nehru road, New Delhi.
2. The Chief General Manager, Telecom., Andhra Telecom Circle, Hyderabad.
3. The General Manager, Telecom., District, Vijayawada-810.
4. One copy to Dr. N. S. Srinivasan, Advocate, C.T., Hyderabad.
5. One copy to Mr. J. R. Gopala Rao, Sr. C.I.C., C.T., Hyderabad.
6. One copy to duplicate.

ccr

תְּהִלָּה וְעַמְּדָה ۳۰. אַבְּגִינְטִין + בְּגִינְטִין + פְּלִימָן (ג)

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Documentos
Técnicos para
la
Estructura
y
Función

•CCG 18.9.181933
• 1256/97

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYD/AC/10.

RA.No.1256/97 in Cl.No.1256/97

Between:

J.S.R.Nurthy

Dated: 8.6.1998.

.. Applicant.

And

1. The Secretary, Doptt. of Telecom., Ministry of Communications, Sanchar Bhawan, 20, Achoka Road, New Delhi-001.
2. The Chief General Manager, Telecom, A.P. Telecom Circle, Abids, Hyderabad.
3. The General Manager, Telecom, Vijayawada - 010.

.. Respondents.

Counsel for the Applicant

: Mr.N.R.Srinivasan

Counsel for the Respondents

: Mr.J.S.Gopal Rao

ORAL:

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

THE HON'BLE MR. S.S.JAI PARAREGAR : READER (C)

* * *

THE TRIBUNAL MADE THE FOLLOWING ORDER:

Heard Mr. N.R.Srinivasan for the applicant and Mr. Sankthi for Mr. J.S.Gopal Rao for the respondents.

2. The applicant was given seniority above that of his junior when they were working in the grade of 3.425-540/- w.o.p. 1.6.97 onwards. The applicant submits that his pay is not fixed on par with his junior on the basis of the seniority. Hence his pay was fixed after the fixation of his seniority some time in 1992. At that time the applicant did not question the validity of his fixation of his pay less than his junior. The applicant submits that he came to know of the fixation of his pay lower than his junior only when his junior retired in November, 1993. He submitted a representation in April, 1995 for fixation of his pay on par with his junior. He approached this Tribunal on 11.9.97 when he received a reply rejecting his case. It is not understood why the applicant has not taken action immediately in 1993 itself when he came to know that his junior was drawing more pay than him. Further when he has not received any reply to his representation submitted in 1995 he did not approach the judicial forum if no reply is received to his representation in time. He approached this Tribunal on 11.9.97 belatedly.

3. The learned counsel for the respondents submit that the applicant cannot claim any relief as this application has been filed belatedly and if the applicant is aggrieved by wrong fixation of his pay he should have approached this Tribunal some time in 1992 itself. To the question why no reply was given to the applicant when he filed representation in 1995 the learned counsel for the respondents could not give any convincing reply. The reason for the belated issue of the reply is not fully answered.

4. The payment of pay and granting of increment is a continuous process. Hence under the circumstances quoted above the RA is disposed of as below:-

The applicant if he succeeds in this OA is eligible for fixation of his pension on the basis of the revised pay only from the date of filing of this OA i.e., from 11.9.97 onwards as the applicant had already retired from service in 1995.

The RA is ordered accordingly.

ADMIT.

प्रमाणित है
CERTIFIED TO BE TRUE COPY

Devdutt Ram
देवदत्त राम
COURT OFFICER
केन्द्रीय प्रशासन निकाय
Central Administrative Service
Tribunal
HYDERABAD BENCH

Sd/- X X X
Deputy Registrar

Copy to:-

1. The Secretary, Dep't. of Telecom., Ministry of Communications, Sanchay Bhawan, 20, Ashoka Road, New Delhi.
2. The Chief General Manager, Telecom., A.P.Telcom Circle, Abida, Hyderabad.
3. The General Manager, Telecom., District, Vijayawada-010.
4. One copy to Mr.N.R.Grinivasan, Advocate, CIT., Hyderabad.
5. One copy to Mr.J.R.Gopala Rao, Sr.CGSC., CAT., Hyderabad.
6. One copy to duplicate.

arr

FORM NO.9
(See Rule 29.)

BY R.P.A.D.

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD.
1st Floor, HACA Bhavan, Opp: Public Garden, Hyderabad. 500004. A.P.

ORIGINAL APPLICATION NO. 199 OF 199

Applicant(s)

V/S

RESPONDENT(S)

S.B.R. Rusty.

BY Advocate Shri:

TG. **B.R. Srinivasan.**

**The Secretary, Govt. of Telecom,
Ministry of Communications, Union of India,
(BY CENTRAL GOVT. STANDING COUNSEL) etc.**

Dr. J. J. Sopala (Telecom) etc.

- 1. The Secretary, Department of Telecom, Ministry of Communications, Union of India, Sector 6, Noida, New Delhi.**
- 2. The Controller Manager, Telecom圈, 10000 Circle, Noida, Hyderabad. 500007.**
- 3. The Control Manager, Telecom District, Vijaywada. 520010.**

Whereas an application filed by the above named applicant under section 19 of the Administrative Tribunals Act 1985 as in the copy annexed hereunto has been registered and upon Preliminary hearing the Tribunal has admitted the application.

Notice is hereby given to you that if you wish to contest the application, you may file your reply along with the document in support thereof and after serving copy of the same on the applicant or his Legal practitioner within 30 days of receipt of the notice before this Tribunal, either in person or through a Legal Practitioner/Presenting Officer appointed by you in this behalf. In default, the said application may be heard and decided in your absence on or after that date without any further Notice.

Issued under my hand and the seal of the Tribunal
This the **18th** day of **June**, **1998**.

//BY ORDER OF THE TRIBUNAL//

Copy - C1 Copy has already been sent to you in F.1125/2/2 in P.125
Date:

1. केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
ग्रेज / DESPATCH

18/6/1998

हैदराबाद न्यायपीट
HYDERABAD BENCH



R
for Registry

BY REGD. POST ACT DUE
Notice of Miscellaneous Application

CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH AT HYDERABAD.
1st Floor, HACA Bhavan, Opp; Public Garden, Hyderabad.500004. A.P.

MISCELLANEOUS APPLICATION No. 199
TM

ORIGINAL APPLICATION NO. 08 199

APPLICANT (s) VS Respondent(s)

To,

MA - 8 O - A

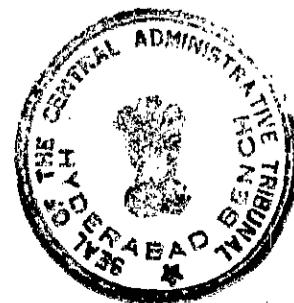
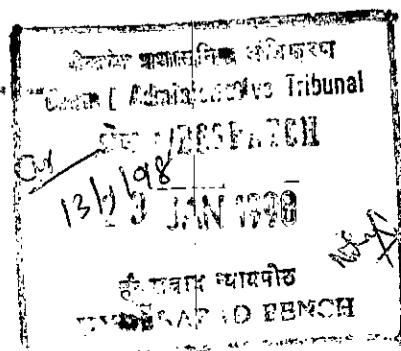
Whereas the applicant above named has filed Miscellaneous Application (copy enclosed) Under Rule 8 (3) of Central Administrative Tribunal (Procedure) Rules, 1987 in this Tribunal and whereas the Miscellaneous Application was ordered on.....

Take notice that within.....* from the date of Service of this notice, you may appear in person or through a duly authorised Legal practitioner and file in three complete sets, reply to the application along with documents if any, in a paper book form failing which the matter will be heard EX-PARTE.

That, you the aforesaid Respondent No..... do send for our use in Central Administrative Tribunal, Hyderabad Bench at Hyderabad all the singular the said records and other with all things touching the same as fully and perfectly as they have been made by you, before theday of199 and the case is posted for hearing on at Hyderabad.

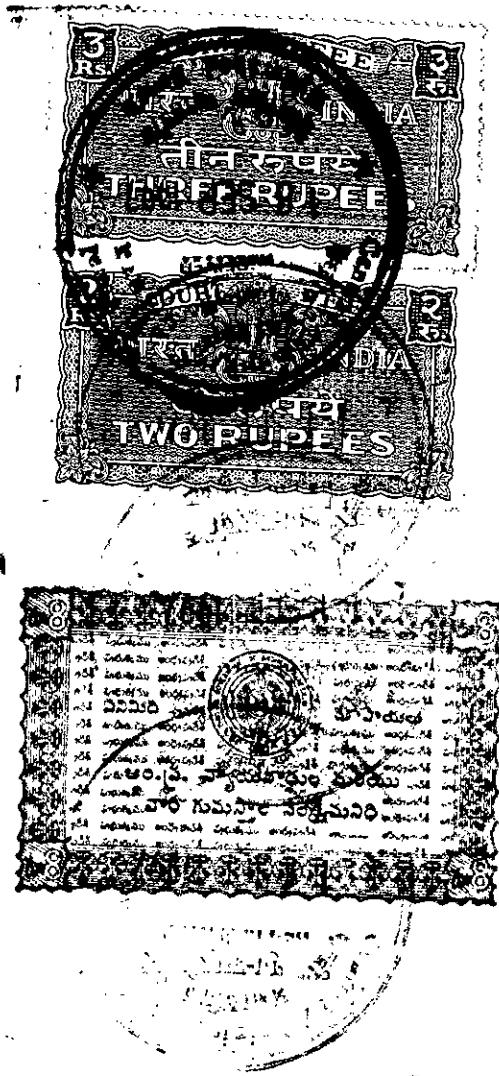
//BY ORDER OF THE TRIBUNAL//

Date:



for REGISTRAR

In the Central Administrative Tribunal
HYDERABAD BENCH AT HYDERABAD



CP/RA No.

ef 19

in

O. A. No.

of 1997

VAKALAT

ACCEPTED

N. R. SRINIVASAN, B.A., LL.B.,

Applicants / Petitioners
Advocates for _____
Respondents

Phone 7614666

Address for Service :

6-1-132/54/G3, Karthikeya Apartments,
Skandagiri, Padmarao Nagar,
Secunderabad - 500 061

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
HYDERABAD BENCH AT HYDERABAD

CP/RA-**No.**

of 19

III

O.A. No. (256)

of 1997

BETWEEN

J.S.R. Murthy

Petitioners / Applicants / Respondents

AND

The Secretary, Dept. of Telecom,
Min. of Comm., New Delhi
2 states

Respondents

Adv. J.S.R. Murthy

Petitioners / Applicants / Respondents

in the above Application do hereby appoint and retain

SHRI N. R. SRINIVASAN, B.A., LL.B.,

Advocate, Hyderabad, to appear for me / us in the above Application and to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including applications for return of documents or for the receipt of any moneys that may be payable to me/ us in the said Application and also to appear in all applications in the same including applications for review.



J.S.R.

I certify that the contents of this Vakalat were read over and explained in ENGLISH / TELUGU / URDU in my presence to the executants who appeared perfectly to understand the same and made his/her/their signatures or marks in my presence after being identified by his/her/their Counsel.

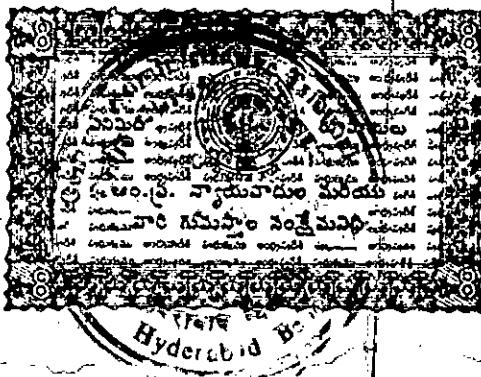
Executed before me this the

10th

day

of Sept 1997

Ramana Rao
ADVOCATE, HYDERABAD.



O.A 1256. 1978

Memo of Application filed
on behalf of respondents

Mr. J. R. Gopal
Adv. Standing Co.
for C.G.

CENTRAL ADMINISTRATIVE TRIBUNAL :: HYDERABAD BENCH

OA/BA/CP/MA. No. 1256

of 1997

J. S. R. MUDHOY

... Applicant(s)

vs.

The Secretary, Deft. of
Telecom, and & others

... Respondent(s)

MEMO OF APPEARANCE

I, J.R. GOPALA RAO, ADVOCATE, having been authorised by South Central Railway Represented by General Manager by the Central Government Authority notified under Sec. 14 of Administrative Tribunal Act, 1985 hereby appear for Respondents to 3 and undertake to plead and act for them in all matters in the aforesaid case.

Hyderabad.

Dt. 25-9-97



Signature & Designation of the
Counsel

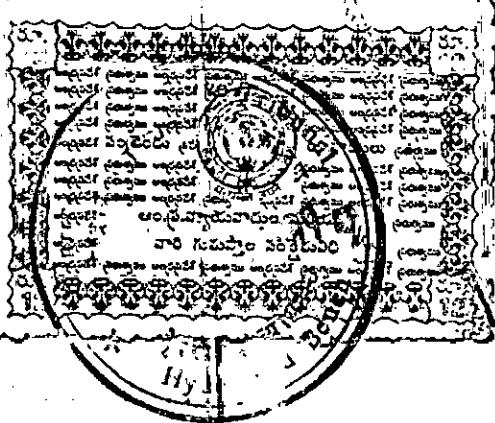
(J.R. GOPALA RAO, ADVOCATE)

Addl S.C. for Central Government
Railways.

.....District

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

OCN No. 1256/97



MEMO OF APPEARANCE

Mr. T.R. Venkata Rao ...
Counsel for Respondents.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
..... AT HYDERABAD

O.A. No. 1256/97

Between

J.S.R. Murthy

...Applicant

Vs

The Secretary, Depl. of Telecom,
rep. by Union of India, Sanchay
Bhawan, New Delhi and others.

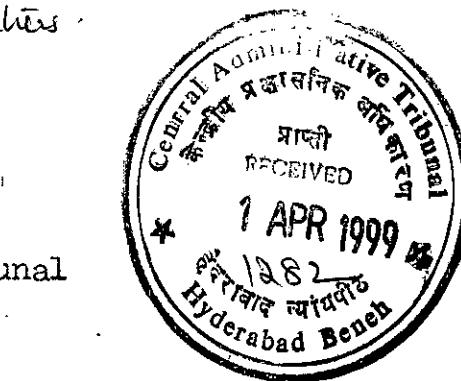
...Respondents

To

The Registrar
Central Administrative Tribunal
Hyderabad

Sir,

Please enter my appearance in the above matter on
behalf of the Respondents.



Jayapal Rao
Counsel for Respondent.

.....
Hyderabad

Date: 31-3-99.

MA 1256/97 in at 1256/97

13-4-98

None for the applicant.
Sro S. R. Gropal Rao for the
respondents. Reply in the
MA has been filed. List
this MA for hearing on
6-5-98. If the applicant's
counsel is not present on
that day MA will be
dismissed for default.

Or
HBSSP
MS

HRRN
MID

6-5-98

list it on 8-6-98.

HBSSP
MID
8/6/98

HRRN
MID

MA 1256/97 is ordered
order side Docket Sheets.

Register the OA.

HBSSP
MS

HRRN
MID

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
HYDERABAD BENCH :: HYDERABAD

M.A. No. 1256 of 1997

in

O.A. No. 1256 of 1997

BETWEEN

J.S.R. Murthy, S/o late J.
Brahmaiah, aged about 59
years, Retd. Telephone
Supervisor, R/o
H.No.26-565-7, Paraspet,
Machilipatnam-521 001 Applicant/Applicant

and

1. The Secretary, Deptt. of Telecom.,
Ministry of Communications
(reptg. Union of India),
Sanchar Bhawan, 20, Ashoka Road,
New Delhi-110 001;
2. The Chief General Manager,
Telecom., AP Telecom Circle,
Abids, Hyderabad-500 001;
3. The General Manager,
Telecom. District,
Vijayawada-520 010 Respondents/Respondents

U/R-8(4) of CAT(P) Rules, 1987

For the reasons stated in the accompanying
affidavit, the applicant prays that this Hon'ble Tribunal
may be pleased to condone the delay of about three years
in representing the matter of his pay anomaly to the
respondent-authorities declaring that the delay is neither
wilful nor deliberate but due to non-availability of
required information with the applicant and to pass such
other or further orders as may be deemed just and proper in
the circumstances of the case or else the applicant will
suffer irretrievable loss and injury.

Hyderabad,

13.12.97.

N. Q. Ravinder
COUNSEL FOR THE APPLICANT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
HYDERABAD BENCH :: HYDERABAD

M.A. No. 1256 of 1997

in

O.A. No. 1256 of 1997

BETWEEN

J.S.R. Murthy

.... Applicant/Applicant

and

The Secretary, Deptt. of Telecom
Ministry of Communications
(Reptg. Union of India),
Sanchar Bhawan, 20 Ashoka Road,
New Delhi and 2 others

.... Respondents/Respondents

AFFIDAVIT

I, J.S.R. Murthy, S/o late J. Brahmaiah, aged about 59 years, retired Telephone Supervisor, r/o Machilipatnam, having temporarily come down to Hyderabad, do hereby solemnly and sincerely affirm and state as follows:

1. I am the applicant in the above OA No.1256/97 and well acquainted with the facts of the case.
2. I submit that when the O.A. came up for admission on 25.9.97 directions were issued by the Hon'ble Tribunal to explain the delay of about 3 years in representing to the authorities concerned regarding the pay anomaly.
3. I submit that after the Hon'ble Tribunal allowed R.P. No.29 of 1990 in OA No.657 of 1997 (vide Annexure A-1, dt.26.12.90) holding that I am entitled to be promoted w.e.f.

1st page

Corrections:

DEPONENT

1.6.74 and that I am entitled to my seniority fixed on that date with fixation of pay on that date, my pay has fixed in pursuance of the above only in March, 1992, i.e. after a lapse of 15 months (vide Annexure A-4). The actual payment of the arrears were made only after a further delay that too only after the District Secretary of the All India Telecom Employees' Union, Class III took up the matter with the 3rd respondent. I submit that when the payment was made I was not aware that the pay of Shri M. Laxmanacharyulu was revised or that he was drawing more pay than me. Since my pay was fixed on the basis of my promotion to the cadre of Telephone Supervisor with effect from 1.6.74, I sincerely believed that my pay was fixed on par with that of Shri M. Laxmanacharyulu.

4. I submit that I came to know of the disparity only after the said Sri M. Laxmanacharyulu retired in November, 1993 but had no clue as to how the disparity arose since my pay was correctly fixed at Rs.425/- as on 1.6.74, the date from which I was notionally promoted to the cadre of Telephone Supervisor on par with the said Sri M. Laxmanacharyulu under Telecom District Manager, West Godavari, Eluru letter dt.5.10.91. I further submit that neither the 3rd respondent's office at Vijayawada nor the said Sri M. Laxmanacharyulu were willing to give me the required information. Though, after much persuasion Sri M. Laxmanacharyulu informed me that his pay was revised due to exercise of revised option by him on some plea or the other. He did not readily agree to give me a copy of the relevant order of the Government or his revised pay fixation memo. As Shri M. Laxmanacharyulu was not staying at Machilipatnam after his retirement but was staying with his son living elsewhere and only paying occasional visits to Machilipatnam. I was not in a position to immediately ascertain whether there was a real pay

He

A/H

PS/AF

anomaly. On the basis of the information given by Shri N. Laxmanacharyulu I approached the 3rd respondent's office several times requiring that I may be made known the correct position as regards the difference in pay drawn by both of us but without any success. I had a doubt that Shri M. Laxmanacharyulu is unwilling to supply me the required information because I claimed that my seniority be fixed above him. I, therefore, requested our common friends to help me by convincing him that he has not suffered in any manner by the revision of my seniority and to make him agree to give the relevant papers. I submit that on the intervention of these common friends, Shri M. Laxmanacharyulu supplied me with a copy of his pay fixation memo. (Annexure A-6) revising his pay at Rs.1900/- as on 1.6.87 as per DoP O.M. Annexure A-5. I submit that on a perusal of the same I came to know the difference in the pay drawn by both of us arose because of the revised option exercised by Shri M. Laxmanacharyulu which I could not exercise because of the pendency of O.A. No.657 of 1987 filed by me before this Hon'ble Tribunal. Immediately thereafter vide Annexure A-6 dt. 28.4.95 I represented the matter to the 3rd respondent but the same was rejected under the impugned order Annexure A-8 dt.28.2.1997 and I have filed the above O.A. No.1256 of 1997 within the time limit prescribed for limitation under Sec.21 of the A.T. Act, 1985.

5. Under the circumstances, I submit that the delay in representing the matter to the respondent-authorities was neither wilful nor deliberate but due to the non-availability of information.

3rd page

Corrections:

 DEPONENT

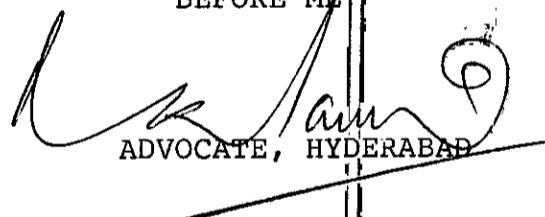
6. I, therefore, request that the Hon'ble Tribunal may be pleased to condone the delay in representing the matter to the 3rd respondent and to pass such other or further orders as may be deemed just and proper or else I will suffer irretrievable loss and injury.



DEPONENT

Solemnly and sincerely affirmed
at Hyderabad this the 13th day of
December, 1997 and signed

BEFORE ME



ADVOCATE, HYDERABAD

4th & last page
Corrections:

To condone the delay
of 3 years in making the
representation to the
departmental authorities

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
HYDERABAD BENCH :: HYDERABAD

M.A. No. of 1997

in

O.A. No. 1250 of 1997

BETWEEN

J.S.R. Murthy

.... Applicant/
Applicant

and

The Secretary, Deptt. of
Telecom., New Delhi &
2 others

.... Respondents/
Respondents

28.4.95
4.3.92 ✓
24.1.93 ✓

11.9.97
4.3.93 ✓
7.6.94 ✓

4.3.92
4.3.93

U/R-8(4) of the CAT(P) Rules, 1987

TO CONDONE THE DELAY IN REPRESENTING
in represent the matter
to the respondent authorities

Received copy
for S.R. Gopalakrishna
23/12/97



Filed by:

Mr. N.R. Srinivasan
Advocate

COUNSEL FOR THE APPLICANT

24/k

24/12/97
27/12/97

1

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD**

**M.A.No.1256 of 1997
IN
O.A.No. 1256 of 1997**

Between:

J.S.R.Murthy.

...Applicant

And

**The Secretary, Deptt.of Telecom
Ministry of Communications,
(Reptg. Union of India),
Sanchar Bhavan, 20 Ashoka Raod,
New Delhi & 2 others.**

...Respondents

REPLY AFFIDAVIT ON BEHALF OF THE RESPONDENTS

I, **G.V.R.Setty**, S/o G.Govinda Setty aged 50 years R/o. Hyderabad solemnly affirm and state on oath as follows.

1. I am working as **Assistant General Manager(Legal)** in the office of the Chief General Manager Telecom., A.P.Circle, Hyderabad. I am well acquainted with the facts of the case. I am filing this affidavit on behalf of the respondents and I am authorised to do so. All the material averments save those that are expressly admitted herein are denied and the applicant is put to strict proof of the same.

2. It is submitted that this MA is filed in accordance with the directions dated 25-9-97 of the Hon'ble Tribunal when the OA came up for admission on that day wherein the applicant has been asked to explain the delay of about 3 years in representing to the authorities concerned regarding the pay anomaly. It is submitted further that the applicant failed to show sufficient cause to explain delay of each and everyday in filing the OA and as such the MA has to be dismissed. *in limine*

24/12
Attestor

Law Officer
O/o C.G.M. Telecom
Hyderabad-A.P.

24/12
Deponent

Asst. General Manager (Legal)
O/o C.G.M. Telecom
A.P. Circle, Hyderabad

3. It is submitted that the applicant's statements are in total contradiction of his own statements in the OA at Para 4.5.(a) P-6 and at Para 4.8 P-7, wherein he has repeatedly affirmed that he could not exercise the option within time stipulated only because of the pendency of the OA No 657/87 filed by him claiming parity in pay-fixation with his juniors. It is further submitted that pendency of OA has no way infringed the rights of the applicant to opt for pay-fixation under the Ministry of Finance(Dept of Expenditure) OM No.7(52)-E-III/86,dated 27-5-1988 as they are two different aspects. The OA 657/87 has been pending for promotion and consequential benefits based upon revised seniority list in the cadre of T.Os. The Ministry of Finance (D.O.E's) instructions cited supra are to provide an opportunity to the employees to switch over to the revised pay-scales from a date later than 1-1-86.

4. It is submitted that the applicant in the present MA in Para 4 has stated that he could know of the disparity only after the said Shri M.Laxmanacharyulu retired in Nov'1993 and his subsequent trials to find the cause. It is only on such trials he could know that Shri M.Laxmanacharyulu's pay was revised because of exercise of such revised option.

5. It is submitted that the averments in the MA and that are in the OA are diagonally opposite and as such self contradictory.

6. It is submitted that the contentions of the applicant in Para 3 of MA that he believed that his pay was fixed on par with that of Shri M.Laxmanacharyulu on the basis of his promotion w.e.f 1.6.74 is untenable as the order of promoting him notionally w.e.f.1-6-74 was issued on 3.8.91 vide Annexure A2 of OA and his pay-fixation was done on 5-10-91 vide enclosure to MA 1257/97 and his pay fixation in the revised scale on 4-3-92 vide Annexure A4 of OA.

7. It is submitted that had the applicant opted between 3-8-91 to 4-3-92 for fixation of his pay in the revised pay scales with effect from 1-6-86 without comparing with anybody the pay of the applicant would have been at Rs 1900/- w.e.f. 1-6-86. The applicant failed to utilise the opportunity of his opting for pay-fixation and approached this Hon'ble Tribunal after a gap of more than 5 years.

Amulya K
Attestor

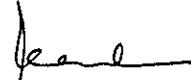
Law Officer
O/o C.G.M. Telecom,
Hyderabad-A.P,

Deponent

Asst. General Manager (Legal)
O/o C.G.M. Telecom
A.P. Hyderabad.

8. It is submitted that had the applicant had opted in the year 1992 for fixation of his pay in the revised scales recommended by the IV CPC w.e.f. 1-6-86, the applicant would have drawn more than what Shri M.Laxmanacharyulu with whom the applicant was comparing himself.

Inview of the above, it is submitted that there is no reasonable ground to condone the delay and no merit either in the MA or OA. Hence, it is prayed that the Hon'ble Tribunal may be pleased to dismiss the same and (or) pass such other order (or) orders as the Hon'ble Tribunal deems fit and proper in the circumstances of the case.


DEPONENT

Asst. General Manager (Legal)
O/o C.G.M. Telecom
A.P. Hyderabad.

Solemnly sworn and signed
before me on this 24th day
of February, 1998 at Hyderabad.


ATTESTOR 24/2

Law Officer
O/o C.G.M. Telecom,
Hyderabad-A.P.

Returned

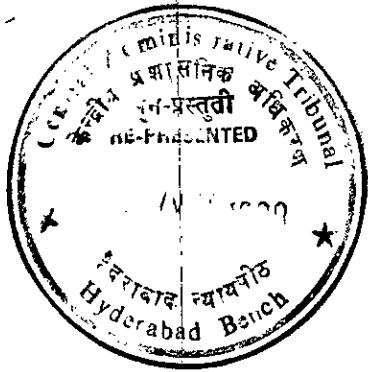
Counter needs to be
served on the other
side

24398

Complied with

Murthy

2/4/98



IN THE CENTRAL ADMINISTRATIVE
TRIBUNAL : HYDERABAD BENCH AT HYD. BHD.

M. A. No. 1256 of 1997
in

O. A. No. 1256 of 1997

Between:

J. S. R. Murthy. ...Applicant.

And

The Secretary, Dept of Telecom,
Ministry of Communications,
Sanchar Bhawan,
20, Ashoka Road,
New Delhi & 2 others. ...Respondents

REPLY STATEMENT FILED ON BEHALF
OF THE RESPONDENTS



Filed on : 27-2-98

Also filed on 25/9/97

Filed by :

Mr. J. R. Gopala Rao,
Addl. C. G. Standing Counsel

Received
on 2/4/98
at 11 A.M.
N. S. Standing Counsel
Constituted

MA. 1256/97 in OA. 1256/97.

मुख्य/ORIGINAL

8-1-98.

Heard Mr. N. R. Sriprakash
for the applicant and Mr. Palgum
Rao for Mr. J. R. Gopal Rao for
the respondent.

Notice.

Fix it on 12-2-98.

Reply in the meanwhile.

✓
HBSJP
M(J)

✓
HRRN
M(A)

Notice in MA
12-2-98

✓
12/1/98

✓
Issued
15/1/98

✓
9-4-98

Heard Sri N. R. Sriprakash Counsel
for the applicant and Sri
J. R. Gopal Rao, Standing Counsel
for respondent.

2. Standing Counsel for respondent seeks some more time to file reply. Enough time has already been given. Even then, in view of the present request time is given upto 6-4-98 for filing reply. If reply is not filed by then, the possibility of halving the MA will be thought of.

✓
HBSJP
M(J)

✓
HRRN
M(A)

भूत रेलवे TELECOM भूत कैम्प/भूत
CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD.

M.A. NO.

1256

OF 1997.

IN

O.A. NO.

1256

OF 1997

To condone the delay of 3 years
in making representation to
Departmental Authority

Mr. N.R. Sriprakash
COUNSEL FOR THE APPLICANTS.

AND

Mr. J.R. Gopal Rao
Sr. ADDL. STANDING COUNSEL FOR
C.G.Rlys.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH :: HYDERABAD

M.A. No. 1257 of 1997

in

O.A. No. 1256 of 1997

BETWEEN

J.S.R. Murthy Applicant/Applicant

and

1. The Secretary, Dept. of Telecom.,
Ministry of Communications
(reptg. Union of India),
Sanchar Bhawan, 20 Ashoka Road,
New Delhi - 110 001,

2. The Chief General Manager,
Telecom., A.P. Telecom Circle,
Abids, Hyderabad 500001,

3. The General Manager,
Telecom District,
Vijayawada-520010

..... Respondents/
Respondents

U/R 8(3) of CAT (P) Rules, 1987

Brief Facts Leading to the Application:

1. The applicant submits that in pursuance of this Hon'ble Tribunal's order in R.P. No. 29/90 in OA No. 657 of 1987, his pay was fixed at the stage of Rs. 425/- from the date of his promotion to the cadre of Telephone Supervisor, i.e., from 1-6-74 under Telecom District Manager, West Godavari, Eluru lr. No. E.18/Gen-Corr/TOS/III/90-91/23, dt. 5-10-91. But due to oversight a copy of Divisional Engineer, Telecom., Krishna Telecom Division, Machilipatnam letter dt. 8-12-81 was annexed to the O.A. as A-3 at page instead of the above order dt. 5-10-91.

PRAYER:

2. The applicant, therefore, prays that the Hon'ble Tribunal may be pleased to permit the applicant to file a copy of the above letter of TDM, WG, Eluru fixing his pay at the stage of Rs. 425 $\frac{1}{4}$ w.e.f 1-6-74 ~~XXXXXX~~ vide letter No. E.18/Gen-Corr/TOS/III/90-91/23 dt. 5-10-1991 as Annexure A-9 of the O.A.

VERIFICATION

I, J.S.R. Murthy, s/o late J.Brahmaiah, aged about 59 years, r/o Machilipatnam, having temporarily come down to Hyderabad, do hereby verify that the contents of paras 1 and 2 are true on the legal advice and that I have not suppressed any material fact.

Hyderabad,
13-12-1997.

SSM

Signature of Applicant

N.R.Srinivasan
(N.R.SRINIVASAN)
Counsel for Applicant

To file Addl.
material papers.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH::HYDERABAD

M.A. No. of 1997

in

O.A. No. 1256 of 1997

BETWEEN

J.S.R. Murthy Applicant/
Applicant

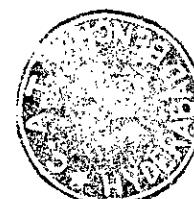
and
The Secretary, Dept. of
Telecom, New Delhi and
2 ors. Respondents/
Respondents

U/r 8(3) of CAT(P) Rules, 1987

Seeking permission to file additional
material paper

copy to

for J.R.Gopal Rao
23/12/97



Filed by:

N.R.SRINIVASAN,
Counsel for the Applicant



29/12

copy signed
31/12/97

MA.1257/97 to OA.1256/97.

26/07/1997

8-1-98

Heard Mr. N.R.Srinivasan
for the applicant and Mr. Palgum
Rao for Mr. J.R. Gopal Rao
for the respondents.

The MA is not opposed.

The additional material
Papers enclosed to this MA
may be taken on record.

The MA is ordered
accordingly.

R
HSSP
mcs

✓
HRRN
mcs

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD.

M.A. NO. 1257 OF 1997.
IN

O.A. NO. 1256 OF 1997

To file Addl. material
P.R.P.

Mr. N.R. Srinivasan,
COUNSEL FOR THE APPLICANTS.

AND

Mr. J.R. Gopal Rao
Sr. ADDL. STANDING COUNSEL FOR
C.G.Rlys.