

18

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH: HYDERABAD.

OA. 1428/97

Between:

N.V.S.Sastry

And

The Chief Engineer, Telecom Civil Zone,
5-1-885, Hyderabad.

2. The Superintending Engineer, Telecom
Electrical Circle, Hyderabad.

3. The Chairman, Telecom Commission,
New Delhi.

Dated: 28-10-1997

.. Applicant.

.. Respondents.

Counsel for the applicant : Mr. K.Venkateswara Rao

Counsel for the respondents : Mr. N.R. Devaraj, Sr.CGSC.

CORAM:

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

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

The Tribunal made the following order:-

Heard Sri K.Venkateswar Rao, for the applicant and Sri W. Satyanarayana for Sri N.R. Devaraj, for respondents.

2. Admit. The recovery due to the revised pay fixation by the impugned order No.15(PF)/CE (Civil)/97/914 dated 22/23-10-97 (Annexure-I Page-7 to the O.A.) if any, is suspended until further orders.


Deputy Registrar (J)

OA.1428/97

Copy to:-

1. The Chief Engineer, Telecom Civil Zone, 5-1-885, Koti, Hyderabad.
2. The Superintending Engineer, Telecom Electrical Circle, Hyderabad.
3. The Chairman, Telecom Commission, New Delhi.
4. One copy to Mr. K.Venkateswara Rao, Advocate, CAT., Hyd.
5. One copy to Mr. N.R. Devaraj, Sr.CGSC., CAT., Hyd.
6. One copy to duplicate.

srr

C.C. Today

TYPED BY
COMPILED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

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

AND

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

Dated: 28-10-97

ORDER/JUDGMENT

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

in

O.A.NO. 1428/97

Admitted and Interim Directions
Issued.

Allowed

Disposed of with Directions

Dismissed

Dismissed as Withdrawn

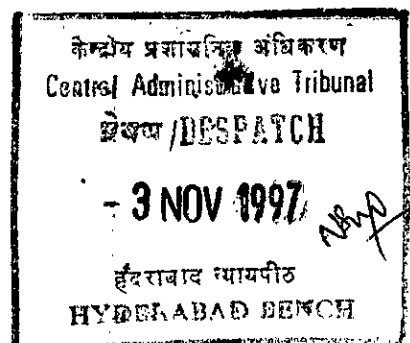
Dismissed for Default

Ordered/Rejected

No order as to costs.

YLKR

II Court



21

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH

AT HYDERABAD

O.A. No.1428 OF 1997.

Between:

N.V.S. SHASTRI

...Applicant

AND

CHIEF ENGINEER (CIVIL),

HYDERABAD AND OTHERS

....Respondents.

REPLY STATEMENT FILED ON BEHALF OF THE RESPONDENTS

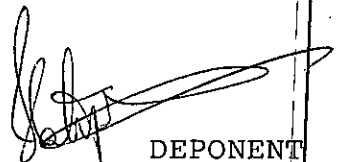
I, T. Satyanandam, S/o. T. Venkata Narayana, aged 54 years, Occupation: Executive Engineer (Civil), Head Quarters, resident of Hyderabad do hereby solemnly affirm and state as follows:

1. I am the Respondent No. and as such I am fully acquainted with all facts of the case. I am filing this Reply statement on behalf of all the Respondents as I have been authorised to do so. The material averments in the O.A. are denied save and except those that are specifically admitted hereunder. The applicant is put to strict proof of all such averments except those that are specifically admitted hereunder:

....2/-


ATTESTOR

Asst. Surveyor of India (Sd)
o/o Chief Engineer (Civil)
A P Telecom Civil Zone;
HYDERABAD-500 095.


DEPONENT
Executive Engineer (HD),
% The Chief Engineer (Civil),
Telecom Civil Zone, Koti Hyd-95

2. The respondents submit the background of the case as under:

Prior to July, 1963, the building works activities of the erstwhile P&T Department were under the charge of CPWD. The P&T Civil Wing came into existence w.e.f. 1.7.63 and the staff of CPWD who were looking after the P&T work were taken in the P&T Civil Wing treating them on deputation. In 1986, the P&T Department was bifurcated into Department of Telecom and Department of Post. From 1.10.86 the Telecom Civil Wing was integrated with Telecom field units. With this integration, the recruitment of nongazetted staff of Civil Wing was also made by the respective Chief General Managers, Telecom. At the time of integration, it was decided that the staff of Civil Wing recruited before 1.10.86 shall maintain separate identity and will be governed by the Recruitment Rules which were in vogue in Civil Wing and staff recruited after 1.10.86 and placed with the Civil Wing will be governed by the Recruitment Rules of Telecom Engineering Wing. The LDC/UDC pattern in the Circle Offices/Metro Districts and other administrative offices of the Department of Telecom where LDC/UDC pattern was existing was converted into the Telecom Office Assistant (TOA) pattern w.e.f. 9.9.1992. These orders were issued on 9.9.92. The TOA cadre was already existing in the field offices of Telecom Engineering side. This pattern

.....3/-



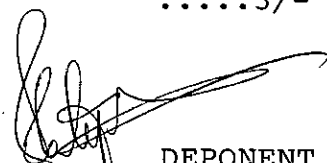
ATTESTOR

Asst. Surveyor of Works (A)

o/o Chief Engineer (Civil)

A P. Telecom Civil Zone;

HYDERABAD-500 093.



DEPONENT

Executive Engineer (HQ),


% The Chief Engineer (Civil),


Telecom Civil Zone, Koti Hyd-95.

was introduced in order to utilise the surplus Telephone Operators in the TOA cadre and thus bring down the staff telephone ratio. Due to change of technology and consequent introduction of more and more electronic exchanges, a large number of Telephone Operators have been rendered surplus. the clerical staff of the Civil Wing who were recruited prior to 1.10.86 were not covered under the scheme. On conversion to the TOA pattern, the LDC/UDCs/OS were placed in the following Grades:

<u>Designation</u>	<u>Stage of entry</u>	<u>Pay Scale</u>
TOA(Gen.) Gr.I	Basic Cadre	Rs.975-1660
TOA(Gen.) Gr.II	OTBP Pay Scale/ Section Supervisor	Rs.1400-2300
TOA(Gen.) Gr.III	BCR Scale / Sr. Section Supervisor	Rs.1600-2660
TOA(Gen.) Gr.IV	10% Posts of BCR Posts	Rs.2000-3200

On conversion to the TOA cadre, the officials are eligible for promotion under the One Time Bound Promotion (OTBP)/Biennial Cadre Reviews (BCR) schemes. As per the orders, LDC/UDCs who opted for the TOA cadre and who had not completed 16 years of service were placed in TOA Grade-I. Officials who completed 16 years of service were placed in TOA Grade-II (OTBP scale) after completing the required formalities. This is a time bound promotional scheme. After completion of 26 years of service, they are promoted to Grade-III (BCR scale). This is not a second time-bound promotion scheme but under this scheme posts are upgraded on the basis of functional justification. 10% of BCR posts are placed in the Grade of TOA Grade-IV. For promotion to Grade-III and Grade-IV, the procedure prescribed in the BCR scheme issued vide letter No. 27-4/87-TE-II(1) dated 16.10.1990, copy of

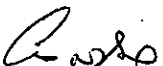

 ATTESTOR
 Asst. Surveyor of Works (A)
 o/o Chief Engineer (Civil)
 A P. Telecom Civil Zone;
 HYDERABAD-500 095.

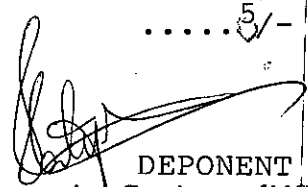

 DEPONENT
 Executive Engineer (HO),
 % The Chief Engineer (Civil),
 Telecom Civil Zone, Koti Hyd-95.

2/1

which is enclosed as Annexure-R-I are to be followed. As per the clarification issued regarding BCR Scheme vide letter dated 11.3.91, copy enclosed as Annexure-R-II, promotions under BCR scheme are prospective only and the date of effect of the promotion is from the date of assumption of charge as promotions are functional and not from the date of completion of 26 years of service.

The officials of the clerical cadre of the Civil Wing who were recruited prior to 1.10.86 maintained separate identity and they were not covered under the TOA pattern. When it was implemented in the Telecom Circle/Admn. Offices there were representations for extending the TOA scheme to the pre-1986 recruits of the Civil Wing offices. In order to extend the benefit of OTBP/BCR Scheme to the clerical staff of the Civil Wing the TOA pattern was extended to them subsequently vide orders dated 16.3.94 copy of which is enclosed as ANNEXURE-R-III. The date of effect was revised to 9.9.92 vide orders dated 29.3.95 copy of which is enclosed as ANNEXURE-R-IV. On a reference from the Civil Wing field units whether the officials eligible for placement in TOA GR.III and IV can be given the benefit from 9.9.92 even though the DPCs for promotion to these grades were held at later dates, it was clarified vide letter dated 21.7.95 copy of which is enclosed as ANNEXURE-R-V, that they could be promoted w.e.f. 9.9.92 provided they were recommended by the prescribed DPC and the DPC recommendations accepted by the Appointing Authority. this was done with a view to give the benefits available to the staff of the Telecom side although the scheme was implemented in the case of the pre-1986 appointees of Civil Wing about 1½ years later and subsequently preponed to 9.9.92.


 ATTESTOR
Asst. Surveyor of Works (A)
 o/o Chief Engineer (Civil)
 A P. Telecom Civil Zone;
 HYDERABAD-500 095.

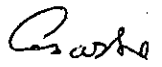
.....5/-

 DEPONENT
 Executive Engineer (HO),
 % The Chief Engineer (Civil),
 Telecom Civil Zone, Koti Hyd-95.

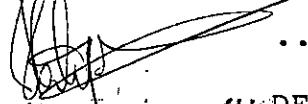
But in the process, the orders on BCR promotions issued by the Telecom Administration (Administration Sections for Telecom Engineering Staff and Civil Wing staff are separate in the Telecom Directorate) was lost sight of. Subsequently, it was observed that the above clarification was contrary to the clarification issued by the Department vide letter dated 11.3.91 according to which promotion under Biennial Cadre Reviews should only be prospective and from the date of assumption of charge. In order to rectify the mistake, it was decided to modify para (1) of this office letter dated 21.7.95 and accordingly revised clarification was issued vide this office letter dated 14.1.97 which stated that promotions to TOA Grade-III and IV would be effective from the date of assumption of charge as in the telecom offices in order to maintain uniformity in implementation of the scheme in all the Telecom offices(Annexure-R-VI). The applicant has contested the revised pay fixation order No. 15(PF)/CE(C)/97/914 dated 22.10.97 issued by this office, which was as per the DOT, New Delhi's order vide lr. No. 10-5/94-CSE dated 14.1.97.

3. On the basis of the aforesaid background of the case, the Respondents submit their reply to O.A. as follows:

Para 1 to 5: Being formal, need no reply.

Para 6(A): Facts of the case: In reply to para 6(a) it is submitted that the contention of the official regarding impugned Memo. No.15(PF)/CE(CIVIL)/97/914 dated 22.10.97 in supersession of earlier pay fixation at Rs.2,250/- vide 9(6)SETECH/96/2246 dated 12.2.96 is denied. It is further submitted that the applicant was promoted as OS Gr. in the same scale of pay of Rs.1600-2660 on 23rd April 1992 and availed fixation of pay under FR 22 (C) (FR 22-1(a)(1) w.e.f. 1.10.92 as per his option. Subsequently, he


Asst. Surveyor of Works (Asst. SATTESOR)
o/o Chief Engineer (Civil)
A P. Telecom Civil Zone;
HYDERABAD-500 095.


Executive Engineer (H.C.), DEPONENT
% The Chief Engineer (Civil),
Telecom Civil Zone, Koti Hyd-95.

26

: 6 :

came over to TOA pattern and given the placement grade of TOA Gr.III in the same pay scale of Rs.1600-2600 and was again allowed the benefit of FR 22(C) w.e.f. 1.10.92 by mistake. As per the existing rules promotion under Biennial Cadre Reviews should only be prospective and from the date of assumption of charge. Therefore and in order to rectify this mistake and as clarified vide DOT letter dated 14.1.97, the pay fixation was revised vide this office letter NO.15(PF)/CE(C)/97/914 dated 22.10.97 . (Annexure-R-VII).

(B & C): Statement of facts, need no reply.

(D): As given in the background of the case, the TOA pattern was first introduced in the Telecom Engineering Wing of the Department of Telecom vide orders dated 9.9.1992. Subsequently, on account of representations, the TOA pattern was extended to the clerical staff of the Civil Wing of the department who were recruited prior to 1.10.86 with effect from 16.3.94 vide orders dated 16.3.94. Subsequently, the effective date was revised to 9.9.1992 but the scheme was subject to the provisions of the BCR scheme contained in the order dated 16.10.90. The intention was to effect the conversion to the appropriate basic grade of TOA Grade-I and TOA Grade-II (OTBP scale) from the same date but further placement to higher grades being based on consideration by DPCs, it could not be granted retrospectively. Therefore, the clarifications issued vide this Department's letter dated 21.7.95 was contrary to the clarification dated 11.3.91, issued by the Department in regard to promotions under the BCR scheme (TOA GR.III). As per the clarifications dated 11.3.91, promotions under the BCR scheme should be from the date of assumption of charge. As the clarifications issued on 21.7.95 with regard to the implementation of TOA pattern in the Civil Wing was erroneous, it was decided to amend the same.

Accordingly, vide letter dated 14.1.97 the Civil Wing Units

Asst. Surveyor of Works
Asst. Surveyor of Works (...)
o/o Chief Engineer (Civil)
A P. Telecom Civil Zone;
HYDERABAD-500 095.

Executive Engineer (HQ) DEPONENT
% The Chief Engineer (Civil),
Telecom Civil Zone, Koti Hyd-95... 76/-

27

: 70 :

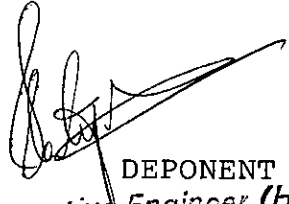
were requested to review the cases where promotions to TOA Grade III and IV were given from retrospective dates in the light of the revised clarifications and regarding revised pay fixation, it has already been discussed in para 6(A) above.


4. (E): It has already been discussed in Para (A) above and in the background of the case and also it is submitted that the order dated 14.1.97 had been issued to rectify the clarification wrongly issued on 21.7.95. In view of the above the mistake committed erroneously has been rectified.

5. In view of the facts stated above, the fixation of pay of the applicant is in order. Hence the Hon'ble tribunal may be prayed for dismissal of OA.

Solemnly and sincerely affirmed
this ^{6th} day of April 1999
and he signed his name in my presence.

BEFORE ME


DEPONENT
Executive Engineer (HQ),
% The Chief Engineer (Civil),
Telecom Civil Zone, Koti Hyd-95


ATTESTOR
Asst. Surveyor of Work,
o/o Chief Engineer (Civil)
A P. Telecom Civil Zone
HYDERABAD-500 095.

(9) - 2 -

(iii) Biennial Cadre Reviews will be conducted in eligible cadres at the level of circles who cadres.

(iv) At the time of review the number of officials who have completed/would be completing 26 years of service in basic grades (including time spent in higher scales) will be ascertained. The persons will be screened by duly constituted Review Committee assess the performance and determine their suitability for advancement.

(v) In the Biennial Reviews, suitable number of posts will be created by upgradation based on functional justification.

(vi) Creation of posts by upgradation will be in the scale indicated below:

Basic scale of the cadre	Scale after OTDP after 10 years of service in basic grade.	Scale after Biennial Cadre Review completion of 26 years
750-940	800-1150	950-1400
825-1200	900-1400	1200-1800
975-1540	1320-2040	1400-2600
975-1660	1400-2300	1600-2660 (10% of the in the pay scale of 2660 will be in the scale of 2000-3200)
1320-2040	1400-2600	1640-2900 (10% of the in the pay scale of 2900 will be in the scale of Rs. 2000-3200)

(vii) Pay of the officials after Biennial Cadre Reviews will be fixed under the provisions of FR 22-C, as amended from time to time.

(viii) Necessary posts will be created by upgradation and the powers of CEM in consultation with their accountants.

(ix) The First Biennial Cadre Review for eligible cadre officials may be conducted immediately covering the period upto 30-6-92 to ascertain the eligible officials who have completed/will be completing 26 years of service or more as on the crucial dates, namely, the date of the review, 1-1-91, 1-7-91 and 1-1-92. The number of posts needed to provide for the promotion of eligible persons will be determined and will be activated in 4 instalments the first immediately, the second on 1-1-91, the third on 1-7-91 and the fourth on 1-1-92. With these posts should be possible to provide for promotion of service employees who have completed 26 years of service on the above crucial dates, subject to their otherwise being found fit. The criterion for promotion will be seniority, subject to selection.

contd.

20.11.90 - 1
1.1.91 - 1
1.7.91 - 1
1.1.92 - 1

8

Min. of Com.

(3) (2)

ANNEXURE-R1

TELECOMMUNICATIONS : ANDHRA PRADESH

of the Chief General Manager, Telecom., A.P., Hyderabad-1.

ST/43-1/83-04/Col.II Dated at Hyderabad-1, the 25-10-'90.

General Manager, Hyd Telecom District, Hyderabad.
a Directors/Telecom District Managers/Telecom District
Engineers in A.P. Telecom Circle.
Supdts/Supts, Tele Traffic in A.P.Circle.
Deputy Superintendent, CTO Hyderabad.
Assistant Engineer, C.T.S.D. Secunderabad.

Subj: Biennial cadre reviews.

Please find enclosed herewith a copy of
Memo No. 27-4/87-TE-II(1) dt. 16-10-90 for favour
of information and necessary action.

S. Viswanathan
Assistant Engineer (Est)
for C.G.M. Telecom., A.P., Hyd-1.

- Director (F&A)
- Chief Accounts Officer
- Accounts Officer (Budget)/Finance
- Accounts Officer I/C, (6 copies)
- Assistant Director (Staff) (6 copies)
- TO (Est)
- Assistant Director (TT) (6 copies)
- Recognised Unions/Associations in the Circle

Circle Office.

of letter referred to above.

Subj: Biennial Cadre Reviews.

For some time past the Staff Unions have been pressing
acceptance of their demand for Second-Time Bound promotion
completion of 26 years of service in the basic grade. After
careful consideration, it has been decided that this concept is
acceptable.

However, with a view to provide relief from stagnation
in the grade, Government have accepted the need for a biennial
cadre review i.e. (once in two years) under which posts could be
graded on the basis of functional justification. The following
instructions are accordingly issued:-

Biennial cadre reviews will be applicable for only those
cadres in Groups C&D for which scheme of 'One Time Bound
Promotion' on completion of 16 years of service in the basic
grade is already in existence.

This Scheme of 'Biennial Cadre Reviews' will be applicable
only to those regular employees who were in service as on
1-1-90 and not later.

contd.....2

Order implementing the first instalment of cadre review
be issued before 30-11-90.

the second cadre review, which will cover the
period from 1-7-92 to 30-6-94, which should be completed before
the required number of posts needed to be released in
yearly instalments on 1-7-92, 1-1-93, 1-7-93 and 1-1-94
later for promotion of those who would have completed 26
years of service on the 4 crucial dates, will be ascertained and
promotions released in appropriate instalments so that the promo-
tions of eligible personnel could be notified on due dates.

Supervisory allowance now admissible to OBP cadres will be
pay fixed in all cadres covered under this scheme w.e.f. 1-12-90.

Creation of posts by upgradation under the Biennial Cadre
review will be by matching savings to the extent of 1% out on
biennial cadre and 5% out on supervisory cadre. Where data (under
biennial cadre review) are in addition to the existing data of
in basic cadres and 15% in supervisory cadres under the
of R&P Scheme.

This issues with the concurrence of Finance Advice
C, vide their U.O.No.3044/90-FA-I dated 16-10-90.

Yours faithfully,

SD/-
(GOPAL DASS)
Director (TE)

dup

6. Whether Seniority-cum-selection method for appointment of the Biennial cadre review

On selection basis means selection on merit and not simply fitness (non-functional) basis, as is applicable for promotional posts.

7. Promotions on Biennial review.

Prospective only.

8. Whether seniors who have not completed 26 years service eligible because Juniors have completed.

No. Only officials who have completed/will be completing 26 years service or more on the crucial dates for biennial cadre will be eligible. However the seniority of senior officials will not be affected.

9. Whether existing supervisory posts created as per prescribed standards will continue to exist separately and filled up from operative staff on seniority basis.

The supervisory posts will have to be worked out based on the prescribed norms and adjustment will have to be made as per OTBP and Biennial cadre review scheme.

10. Whether Officers already having pay scale of Rs.1600-2600 will rank senior to Officials in the scale of Rs.1400-2300 for the 10% quota (Rs.2000-3200)

The seniority of official is to be maintained with reference to the basic cadres and functional promotional posts they hold and not merely with reference to the pay scales.

11. Whether Officials in the pay scale of Rs.1400-2600 can straightway be appointed in 10% quota (Rs.2000-3200)

Recruitment Rules are being framed.

12. Designation of the posts in various cadres.

Basic grades may be called as Grade-I, officials in OTBP as Grade-II, officials after Biennial cadre review as Grade-III, and officials in the scale of Rs.2000-3200 as Grade-IV officials.

13. Date of effect of promotion whether date of completion of 26 years or date of assumption of charge.

From the date of assumption of charge, as the promotions are functional

Contd...3/-

11

30
ANNEXURE-RJ

Copy of

No.27-6/90-TE-II
Govt. of India
Ministry of Communications
Deptt. of Telecom.
TE-II Sec.

236-D Dak Bhavan,
20-Ashoka Road,

Dated New Delhi, the 11 March, 1991.

To

All Heads of Telecom. Circles.
Metro Districts
Maintenance Regions
Project Circles.

Sub: Clarifications regarding Biennial cadre review and
cadre restructuring.

Sir,

Orders regarding Biennial cadre Review and re-
structuring scheme of Gr. 'C' & 'D' technical cadres
were issued vide this office letter No.27-4/87-TE-II(1),
(2), (3), (4), & (5) dated 16.10.90. Certain clarifica-
tions have since been sought by some of the field units.

In this connection, the points raised and their
clarifications are as under:

POINTS RAISED BY
THE FIELD UNITS.

CLARIFICATIONS

1. Instructions regarding
Recruitment Rules, Syllabus
etc.

Case under consideration
of Personnel/Training
Sections.

2. Date of effect.

Date of effect is as
specified in the orders.
First Biennial cadre
review has to be
finalised and orders are
to be issued before
30.11.90.

3. Reservation of SC/ST.

Normal rules will apply
because the promotions
will be on functional
basis.

4. Constitution of review
Committee.

Case under consideration
of Personnel Branch.
Orders for giving adhoc
promotion have been
issued.

5. Whether Distt. level
cadre/Circle Cadre.

Depending on the appoint-
ing authority and present
position.

Contd...2/-

14. Whether cut of 1% & 5% in the basic and supervisory cadres will be on divisional basis and fraction of 0.5 and above to be rounded to next higher integer.

Creation of posts by upgradation under the Biennial Cadre Review will be by matching saving to the extent of 1% cut on basic cadre and 5% on Supervisory cadre. These cuts are in addition to the existing cuts of 5% basic cadre and 15% in supervisory cadre under OTBP scheme and as applicable to the OTBP scheme.

15. At what age the Group 'D' officials appointed in pay scale of Rs.950-1400 after Biennial cadre review will retire

50 years. The employees who are placed in the scale of Rs.950-1400 are classified as Grade-'C' in accordance with the provision contained in Govt. of India Order No.1 under Rule 6 of CCS(CCA) Rules, 1965.

This issues in consultation with Telecom. Finance vide their U.O. No.408/91-FA-1 dated 19.2.1991.

Sd/-

(BUDH PRAKASHI)
ASSISTANT DIRECTOR CENTRAL

Copy to:

1. All officers of the rank of DDGs and above.
2. All recognised Unions/Associations/Federations.
3. Secretary Staff Side Department of JCM.
4. Guard File.
5. FA-I/NCG/STN/Eng./Pension/PAT Sections of D.O.T.

Sd/-

(K.S. Bhatia)
Section Officer (TE-II)

DEPARTMENT OF TELECOMMUNICATIONS

XThe Chief Engineer(Civil)
Telecom Civil Zone, Koti,
Hyderabad.

No.9(10)/CE/97/

Dated:- - 01 - 97

- Copy to:- 1 to 3. The Superintending Engineer, Telecom Civil Circle, Hyderabad/Vijayawada/Vishapatnam.
4. The Superintending Engineer, Telecom Electrical Circle Hyderabad.

Executive Engineer(HQ)
Xthe Chief Engineer(C), Telecom
Civil Zone, Hyderabad.

4. The cadre of WC.II/WC.I/HC/OS will henceforth be abolished with the introduction of the conversion scheme from WC.II/WC.I/OS cadre to TOA cadre. Therefore, there will be no recruitment of the cadre of WC.II/WC.I/HC/OS departmental or from outside. However, those who may not opt for TOA pattern will retain their present location, pay and their retirement/resignation etc.

5. The WC.II/WC.I/HC/OS will be given an option to either to remain in the WC.II/WC.I/HC/OS cadre or to switch over to the new cadres of TOA. The present incumbents will also be given the option to decide the date to switch over within a period of 3 months from the date of issue of these orders.

6. The WC.II/WC.I/SG WC.I/HC/OS of Civil Wing of DOT shall be absorbed in the corresponding grades in TOA pattern on their option for conversion to TOA.

7. This scheme will not apply to WC Gr. II/WC Gr. I/HC/OS of Civil Wing who have given their options for absorption in the Civil Wing of Deptt. of posts or to those working in the office of Chief Engineer (Civil) / (Elect) / Chief Architect.

U. PAY FIXATION:

(a) The pay of WC Gr. II/WC Gr. I who opt for TOA cadre and who have not completed 16 years combined service will be fixed under FR-22 (treating it as a placement in a post not involving higher responsibility).

(b) In respect of those WC Gr. II/WC Gr. I who have completed 16 years of service as provided in OTBP order of 1983 will be directly placed in the scale of Rs. 1400-2300 after the selection process by a duly constituted DPC is completed. Their pay fixation will be done under FR-22 treating this promotion to the higher scale as involving assumption of higher responsibility.

(c) In respect of those officials who have completed 16 years of service and not been found fit for promotion by the DPC, their pay will be fixed as indicated in the para No. 8(a).

(d) The total service in the WC Gr. II/WC Gr. I/SGWC or TOA/SG/HC/OS, will be counted for the purpose of granting of OTBP and promotion under BCR scheme as per the rules applicable to the cadre of TOA.

(e) Those WC Gr. I/WC Gr. II who opt to continue in the existing will not be eligible for time bound promotion. In their own channel of promotion also, they will be able to get the promotion as the posts of HC, SG and OS etc. will stand abolished on the present incumbents opting to the new scheme or otherwise vacant.

Contd.....

OTBP = One Time Bound Promotion,
BCR = Biannual Cadre Review.

14
GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS
DEPARTMENT OF TELECOMMUNICATIONS
MARATHI BUAHAN, 20, ASHOKA ROAD, NEW DELHI

1876 71
ANNEXURE. (24) RW

21/92-CSE

Dated: 16.03.94.

All Heads of Telecom. Circles,
All Heads of Metro Telephone Districts,
All Heads of Maintenance Regions,
All Chief Engineers (Civil)/(Elect.),
All Chief Architects,
All H.E. (Civil)/(Elect.),
All U.S.W. (Civil)/(Elect.),
All Senior Architects.

Ext. Extension of the TOA pattern to the Clerical Staff
of Telecom, Civil Wing recruited prior to 01.10.86.

I am directed to say that consequent on the introduction of TOA pattern in the clerical cadres in administrative offices and Metro Districts of the Telecom. Department vide Directorate letter No. 27-4/87-TE-II dated 9.9.92, representing extension of the TOA pattern to the clerical staff of the Civil Wing officials recruited prior to 1.10.86 received, it has been decided to extend the TOA pattern to existing Works Clerk Grade.II/Works Clerk Grade.I/ Head of Office Superintendent in the Telecom. Civil Wing recruited prior to 01.10.86 as per the details given below.

They will be absorbed in the following grades of the Telecom. Circles:

Designation	Stage of Entry	Pay Scale
(Gen.) Gr. I	Basic Cadre	Rs. 975-1660
(Gen.) Gr. II	OFPS Pay Scale/ Section Supervisor	Rs. 1400-2300
(Gen.) Gr. III	BCR Scale/Gr. Section Supervisor	Rs. 1600-2660
(Gen.) Gr. IV	10% of BCR Posts. in Civil Circles	Rs. 2000-3200

In future, DOT Civil Wing offices where WC.II/WC.I/IC/OS presently exist, will have only TOAs in the grades listed in para-2 above.

Contd...../-....

OFFICE OF THE SECRETARY

DEPARTMENT OF TELECOMMUNICATIONS

9. These orders will take effect from the date of
10. This issued with the concurrence of Telecom Finance
Advice vide their U.O. No. 813/94-F.A.I dated 22.02.94.

Yours faithfully,

has

(K.J. CHANDRANATHAN)
ASSTT. DIRECTOR GENERAL (CW)

Copy forwarded for necessary action and information to:

1. Chairman, Telecom. Commission, New Delhi.
2. All Members/Advisors, Telecom. Commission, New Delhi.
3. All DDOs, DOT, New Delhi.
4. Budget/F.A.I/TE.I/TE.II/NCG/STN/Works/CWF Sections of the Directorate.
5. All recognised Federations/Unions/Associations.
6. C.S., All India P&T Civil Wing Non-Gazetted Employees Union, Central Head Quarter, T-16, Atul Grove Road, New Delhi-110 001.
7. Sh. R. Venkatraman, Secretary General, F.H.T.O., T-16, Atul Grove Road, New Delhi-110 001. with reference to his multiple letters on the subject.
8. Order bundle/Guard File.
9. Hindi Section for providing Hindi translation.

R. Venkatraman

SECTION OFFICER (CSE)

16

SSA = Secondary
Switching
H. E. E. C. M.

14

33

(f) Recruitment rules in the cadre of TOAs proposed to be introduced in the Civil Circles and other offices will be the same as those followed in SSA of Department.

(g) The post of WC Gr. II will be converted to TOAs in the ratio of 10 : 9 and the WC Gr. I posts will be converted in the ratio of 1 : 1.

(h) The matching saving required for conversion will have to be provided by abolishing the existing posts of WC Gr. II or an equal number of WC Gr. I/TOAs within the Circle office. If sufficient posts are not available to provide matching saving, the scheme may be introduced in a phased manner.

(i) WC Gr. I/WC Gr. II/SC-WC Gr. I/HC/OS on their placement in the corresponding grades in the TOA cadre shall be merged with TOA Cadre of Telecom. Circle offices immediately. Thereafter they shall be merged with the staff of local SSA when the staff of Circle Office/metro districts is decided to be merged with local SSA.

(j) TOA (Gen.) Gr. I, II, & III will be Telecom Circle office/Civil Wing cadre for the purpose of transfer and promotions etc. However TOA (Gen.) Gr. IV will be a Circle cadre.

(k) TOA (Gen) Gr. I, II, III & IV will be Group 'C' posts.

(l) Till such time recruitment rules for TOA (Gen.) Gr. I, II, III & IV are modified to accommodate the scheme, the terms and conditions as applicable to TOA (Gen.) Grade-I, II, III & IV of SSA will be applicable.

(m) The special pay drawn by the WC Gr. I posted against identified posts will not be counted for the purpose of pay fixation. In case there is a gap in emolument, it may be protected as per existing rules.

(n) The WC Gr. I will rank senior to all the WC Gr. II as on date; their inter-se-seniority will remain as it is. Instructions issued from TE-II branch shall be followed for fixing the seniority of the Civil Wing officials on their absorption in TOA pattern.

(o) The post of WC Gr. II/WC Gr. I/HCs/OSs etc. will be personal to the present incumbents if they opt out of the Scheme. These posts will be abolished on being vacated by the present incumbents due to retirement, resignations, death etc.

(p) Normal rules on reservation for SC/ST candidates will be applicable while implementing the scheme.

Contd...../-.....

4. In which Offices, officials placed in TOA Gr.IV are to be posted.

They may be posted in the offices of SE (HO). If more than one TOA Gr.IV is available in a Circle the second person may be posted in the office of SE(E)/1(2).

5. The extent of relaxation in the eligibility service permissible to SC/ST officials for placement in TOA Gr.II and TOA Gr.III may be specified.

If sufficient number of SC/ST officials with 16 years and 24-26 years of service are not available to fill up the vacancies reserved for them in TOA Gr.II and TOA Gr.III respectively, the shortfall may be made up by considering SC/ST officials upto a minimum service of 10 years and 17 years for the two grades.

6. What are the duties and responsibilities of TOA Gr.I, II, III & IV?

The duties and responsibilities for the officials in the different Grades will be fixed by the Chief Engineers concerned keeping in view the job requirements in the Offices under his jurisdiction.

7. Introduction of Sr. TOA Gr.I in the pay scale of Rs. 320-2040 for officials who were in the pay scale of Rs. 1200-2040 in the HC Grade pattern.

This case is under consideration and the decision will be intimated separately.

Yours faithfully,

(K.S. CHANDRASEKHAR)
Asstt. Director General (CW)

Copy forwarded for information to:

- 1. All recognised Federations/Unions/Associations.
- 2. G.S.: All India P&T Civil Wing Non-Gazetted Employees Union, Central Headquarter, T-16, Atul Grove Road, New Delhi.
- 3. Budget/PA-I/TE-I/TE-II/NCG/STN/Works Section, Deptt. of Telecom.
- 4. GWP Section, Department of Post.
- 5.

(K.S. CHANDRASEKHAR)
Asstt. Director General (CW)

Dy. No. 82-1	
Date 31-7-11	
O/o, S.I. Telecom Civil, Hyd.	
G. E.	
S. W.	
E. A.	
Supdt.	

(18)

(33) 31

ANNEXURE. RIV

GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS
DEPARTMENT OF TELECOMMUNICATIONS

Sanchar Bhawan,
No. 20, Ashoka Road,
New Delhi - 110 001.

Dated the 21st July, 1995

No. 10-5/94-CSE

To:

- All Heads of Telecom. Circles,
- All Heads of Metro Telephone Districts,
- All Heads of Maintenance Regions,
- All Chief Engineers (Civil)/(Electrical),
- All Chief Architects,
- All Suptg. Engineers (Civil)/(Electrical),
- All Suptg. Surveyor of Works (Civil)/(Electrical),
- All Senior Architects

Subj: Extension of the TOA pattern to the clerical staff of Telecom. Civil Wing recruited prior to 01.10.86
Clarifications regarding.

Sir,

I am directed to say that with the revision of the effective date of implementation of TOA pattern for the clerical staff of the Telecom. Civil Wing from 16.3.1994 to 9.9.92, the Telecom. Circles, the Civil Wing Circles and the Employees Unions have raised several points for clarification. These points have since been considered and clarified as follows:-

POINTS RAISED

1. Whether the officials eligible for placement in TOA Gr. III and IV can be given the benefit from 9.9.1992 even though the DPCs for promotion to these Grades were held on later dates.
2. Due to Implementation of TOA pattern w.e.f. 9.9.1992, whether the officials are required to be given a fresh opportunity to change their options.
3. Whether officials in WC Gr. I/ WC Gr. I, who are under suspension or against whom vigilance/disciplinary cases are pending, can be allowed to opt for TOA pattern.

CLARIFICATIONS

Yes, provided the eligible officials have been recommended suitable for promotion to TOA Grades III and IV with effect from 9.9.92 by the prescribed DPCs and the DPC recommendations accepted by the Appointing Authority.

Yes, the officials may be allowed to exercise a fresh option within a period of two months from the date of issue of this letter.

There is no objection to allowing an option to such officials for coming over to TOA Gr. I. But where the conversion involves consideration of the officials by a DPC, the officials should be free from vigilance/disciplinary case.

... Contd..

2

Dated: 29th March, 95.

Subject: Effective date of implementation of the TOA pattern extended to the clerical staff of Telecom Civil Wing recruited prior to 1.10.86..

Hindi version will follow.

They

by forwarded for information to:

(N. R. a)
Section Officer (CSE)

RV. for via. (in time)

O/O. S.E.T.E.C. HYDERABAD
Duty No. _____

S.E.	D.M.
E.	O.S.

35
ANNEXURE-R.V

(20)
No. 10-21/92-CSE
Government of India
Ministry of Communications
Deptt. of Telecom.

Dated: 29th March, 95.

All Heads of Telecom. Circles,
All Heads of Metro Telephone Districts,
All Heads of Maintenance Regions,
All Chief Engineers (Civil)/(Elect.)
All Chief Architects,
All S.E (Civil)/(Elect.)
All S.S.W (Civil)/(Elect.)
All Senior Architects.

Subject: Effective date of implementation of the TOA pattern extended to the clerical staff of Telecom Civil Wing recruited prior to 1.10.86.

I am directed to say that on a representation from the Federation of National Telecom Organisation, a case for implementation of the TOA pattern extended to the clerical staff of Telecom Civil Wing recruited prior to 1.10.86, from 9.9.92 i.e. the date it was introduced in the Telecom offices) instead of 16.3.94 was considered by the Department. It has been decided to implement the scheme for the pre 1.10.86 Civil Wing recruits also from 9.9.92. The date of implementation of the TOA pattern as mentioned in this office letter of even number dated 16.3.94 may therefore be treated as revised to 9.9.92.

Hindi version will follow.

Yours faithfully,

K.S. Chandrasenan

(K.S. Chandrasenan)
Assistant Director General (CW)

Copy forwarded for information to:

Budget/FA-I/TE-I/TE-II/MCG/STN/Works Section, Deptt. of Telecom.
New Delhi.
CWP Section, Department of Post, New Delhi.
All recognised Federations/Unions/Associations.
G.O. All India P&T Civil Wing Non-Gazetted Employees Union,
Central Head Quarter, T-16, Atul Grove Road, New Delhi-1.
Sh. R. Venkataraman, Secretary General, F.N.T.O, T-16,
Atul Grove Road, New Delhi-1 with reference to his letter
No. 22-6/0334/94 dated 2.12.94.
Order Bundle/Guard File.
Hindi Section for providing Hindi translation.

O/O S.E.T.E.C. HYDERABAD	
Dy. Ho.	
1. No.	
2. E.	
3. S.	
O.S.	

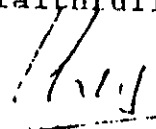
(N. R. R.)
Section Officer (CSE)

R.V. Jaiswal (in file)

23

3. You are requested to review the cases where promotions to TOA Gr.III and IV were given from retrospective dates in the light of the revised clarification given above.

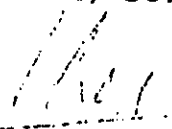
Yours faithfully,



(K.S. CHANDRAHASAN)
Assistant Director General(CW)

Copy forwarded for information to:

1. All recognised Federations/Unions/Associations.
2. G.S. All India P&T Civil Wing Non-Gazetted Employees Unions, CHQ, T-16, Atul Grove Road, new Delhi.
3. Budget/FA-I/TE-I/TE-II/NCG/STN/Works Section, DOT.
4. COP Section, Deptt. of Post.
5. Guard File/Order Bundle.



(K.S. CHANDRAHASAN)
Assistant Director General(CW)

22

ANNEXURE-RVI 36

Government of India
Ministry of Communications
Department of Telecommunications
Sanchar Bhawan, Ashoka Road, New Delhi 110001.

No.10-5/94-CSE

Dated: 11/1 January, 97.

To

All Heads of Telecom Circles,
All Heads of Metro Telephone Districts,
All Heads of Maintenance Regions,
All Chief Engineers(Civil/Elect.),
All Chief Architects,
All Suptg. Engineers(Civil/Elect.),
All Suptg. Surveyor of Work(Civil/Elect.),
All Sr. Architects.

Sub: Extension of the TOA pattern to the clerical staff
of Telecom Civil Wing recruited prior to 1.10.1986
- clarifications regarding.

Sir,

3807
20.1.97
I am directed to invite a reference to this Department's letter of even number dated 21.7.95 on the above subject wherein at Para (1) it was clarified that the eligible officials can be granted the benefit of promotion to TOA Gr.III and IV w.e.f. 9.9.92, provided they were recommended for grant of such promotion by the prescribed DPCs. This clarification was contrary to the clarification issued by the TE Section vide its letter No.27-6/90-TE.11 dated 11.3.91 (copy enclosed), according to which promotion to TOA Gr.III should be from the date of assumption of charge.

2. The matter was considered and it has been decided that promotions to TOA Gr.III and TOA Gr.IV in Telecom Circles as well as in the Civil Wing Units would be from the date of assumption of charge to the post. The clarification at Para (1) of this office letter quoted above will, therefore, stand corrected to read as follows:

POINTS RAISED

1. Whether the officials eligible for placement in TOA Gr.III and IV can be given the benefit from 9.9.92 even though the DPCs for promotion to these Grades were held on later dates.

CLARIFICATIONS

1. No, promotions to TOA Gr.III and IV would be effective from the date of assumption of charge to the post.

Contd...2/-

EE (H/O)

Group
P/ptg. Secy
C. & P. Division
21/1/97

21/1/97

Fair List Case

Item no. 47

In the CAT
at Hyderabad

O.A. No. 1428 of 1997



Reply Statement
Filed by the Respondents

Memotiled: 6-4-99

B. Narasimha Sharma
Advocate SrCGSC

may be filed
on
8/4/99

(24) A / ANNEXURE R-VII
(7)

DEPARTMENT OF TELECOMMUNICATIONS
O/o The Chief Engineer, Telecom Civil Zone,
No.5-1-885, Koti, Hyderabad - 99.

No. 15(PF)/CE(Civil)/97/110 dated at HD the 7.10.97.

PAY FIXATION MEMO

In accordance with Chief Engineer, Telecom Civil Zone, Hyderabad Lr.No.9(10)/CE/97/906, dated 21.10.97, the pay of the official Sri N.V.S. Sastry, Office Superintendent is refixed at Rs.2150/- with effect from 1.10.92 with date of increment on 1.10.93 in the pay scale of Rs.1600-2600, since the Office Superintendent cadre is a placement in the grade of TOA III in TOA pattern with identical scale. The official may be treated as converted to TOA pattern with effect from the date of assumption of charge as TOA -III. This supercedes the earlier pay fixation order issued vide Supdg.Engineer, Telecom Electrical Circle, Hyderabad Lr.No.9(6)/SE TECH/95/2246, dtd.12.2.96.

Superintending Engineer(HQ),
Telecom Civil Zone,
Hyderabad - 95.

Copy to:

1. The official concerned.
2. File No.9(3).
3. The Service Book of the Official.
4. The Cashier, O/o The CE(C)-Hyd.

Superintending Engineer(HQ).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT :: HYDER

O.A.NO. 1428 of 1997

Between:-

N.V.S.SASTRY, S/o.Satyanarayana, aged about 57 years, C.S.E.(Chief Section Supervisor), O/o.the Chief Engineer, Telecom Civil Zone, Kothi, Hyderabad.

... APPLICANT

A N D

1. The Chief Engineer, Telecom Civil Zone, Kothi, 5-1-885, Hyderabad.

2. The Chairman, Telecom Commission, New Delhi.

... RESPONDENTS

REJOINDER

I, N.V.S.Sastry, S/o.Satyanarayana, aged about 56 years, Chief Section Supervisor, O/o.the Chief Engineer, Telecom Civil Zone, Kothi, Hyderabad, do hereby solemnly and sincerely affirm and state as follows:

1. I am the applicant in the above O.A. and as such I am well acquainted with the facts of the case. I have read the reply statement filed on behalf of the respondents and in reply thereto I beg to submit as follows:-

2. I submit that under T.O.A. Pattern all the officials who had completed 16 years of service in the scale of 975;1660 (T.O.A.I) will be placed in TOA Grade-II in the scale of Rs.1400-2300 (O.T.B.P. Scale). Similarly on completion of 26 years of service officials are placed in Grade-III BCR Scale of 1600-2660. It is relevant to submit that all officials who have completed 26 years of service are placed in the scale of 1600-2660 subject to suitability. The promotion to BCR is functional means that benefit of FR.22-C (22IAI# should be extended. All those who are found suitable and who have completed 26 years of service are to be placed in the scale of Rs.1600-2660 without reference to any post. In other words the posts of T.O.A.II is treated as T.O.A.III by sanction if necessary. I submit that promotion to BCR

are prospective if the D.P.C. meets at regular intervals as indicated in the rules. However if for any reason there is delay in conveying D.P.C. the officials who are entitled for B.C.R. promotion are given from the due dates i.e. retrospectively. This is also clear from the orders issued by the Department of Telecommunication letter No. 15-4/97-TE.II dated 8.7.1998 wherein it was clarified that in case some delay is visualised in holding D.P.C., ~~for~~ ² and promotion to B.C.R. officiating promotion may be given to those officials from the cut off date subject to clearance by D.P.C.

3. I submit that the scheme of T.O.A. pattern in clerical cadres of Telecom Department was not made applicable to the staff of civil wing recruited prior to 1.10.1986. This scheme was however later extended to the clerical staff of the civil wing officials recruited prior to 1.10.1986, by Lr.No.10-21/92-CSE dated 16.3.1994 issued by DOT, New Delhi from the same date namely 9.9.1992. It is in accordance with the above orders my pay was fixed from 9.09.1992, vide office Order No.9(10)/95/225 dated 29.9.1995 issued by the first respondent and monetary benefits were given from that date namely 9.9.1992. This was done by the Department with a view to give the benefits available to the staff of Telecomside although scheme was implemented in the case of pre 1986 appointees of Civil Wing about 1 1/2 years later and subsequently preponed to 9.9.1992. Thus it is clear that the main object of extending the benefit of TOA pattern from 9.9.1992 to pre 1986 recruitees of civil wing offices is only to bring them on par with Telecom Staff so that there can be no vice of discrimination and this decision was taken by the Department taking all aspects into consideration and as such it cannot be said that there is a mistake in the

above decision requiring any modification. I therefore submit that it cannot be said that any mistake was committed in extending the T.O.A. pattern to pre 1986 recruitees, of civil wing from the same date 9.9.1992 as was given to post 1986. Hence the modification is only intended to take back the legitimate benefit from 9.9.1992 without any valid reasons. It is only in the guise of a mistake the respondents want to take back the benefit from the applicant.

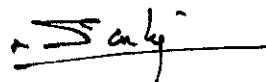
4. I submit that as already submitted by me in the O.A. what is contemplated under F.R.22IA(1) is that of carrying duties and responsibilities of greater importance than those attached to the post held by me. I therefore submit that there is no illegality in invoking F.R.22I a(1) on the only ground that the scale of pay attached to the post held by me and the post to which I was promoted/appointed T.O.A.III is only and the same and as such stopping of my pay on this ground is wholly illegal. Further under identical circumstances although the scale of pay of senior Accounts Officer and that of Assistant Chief Accounts Officer are one and the same namely 2200-4000 (IV Pay Commission Scale), the benefit of F.R.22Ia(1) is being extended to Senior Accounts Officers on their promotion as Assistant Chief Accounts Officer. I therefore submit that the benefit of

/Contd.. 47,

fixation of pay under F.R.22Ia(1) has no relevance to the scale of pay applicable to the post held and promoted/appointed and what is criterion is that the post to which appointed/promoted carrier without^{it} Higher responsibilities. It is relevant to submit that² this aspect of the matter could not be contraverted to in the reply statement.

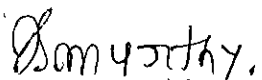
It is therefore prayed that this Hon'ble Tribunal may be pleased to allow the O.A. as prayed for and pass such other order or orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

Sworn and signed before me
on this 18th day of April,
1999 at Hyderabad.



DEPONENT

Before me


// ADVOCATE // HYDERABAD.

No.8(6)/95/ED/HBL/596

Dtd 17/7/1995.

Office of the Executive Engineer,
Telecom Electrical Division,
Dr.K.H.Jituri Building, Kumar Cross,
HUBLI-590 021.

PAY FIXATION MEMO.

1. Name of the official : Sri. Manvi Jayaram.
2. Post held before promotion: D'Nan.Grade-II.
3. Pay drawn in the old post :
& the date from which present
pay is drawn. : Rs.1850/- w.e.f. 1.9.94
4. Scale of pay : 1400-40-1800-EB-50-2300
5. Post to which promoted. : Junior Engineer(Electrical)
6. Date of promotion. : 15-06-95
7. No.& Date of Order of
promotion. : 9(6)/HR:PEC:BGL:95/140 dt. 31.5.95 of
S.E.P.E.C.Bangalore.
8. Date from which pay is
desired to be fixed as per
the option of the official. : 1-8-95
9. Scale of New post. : 1400-40-1800-EB-50-2300
10. Pay fixed in the new
scale. : Rs.1900/- w.e.f. 15.6.94 to 31.7.95
11. Details of previous official's
paying period in the same
or identical post. : under FR 22(a)(i) and Rs.2000/- w.e.f.
1.8.95 under FR 22(C)
12. Date of next increment : 1-8-96
13. Remarks, if any : Pay has been fixed on the basis of
the option from the official.

Accounts Officer

Telecom Electrical Division,
Hubli-590 021.

Copy to:-

1. Official concerned.
2. Service book of the official.
3. Senior Accountant.
4. Pay bill clerk.

*Shc/-

Accounts Officer
Telecom Electrical Division
Hubli-590 021.

44

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.1428/97.

Dt. of Decision : 15-06-99.

N.V.S.Sastry

..Applicant.

Vs

1. The Chief Engineer,
Telecom Civil Zone,
5-1-885, Koti,
Hyderabad.
2. The Superintending Engineer,
Telecom Electrical Circle,
Hyderabad.
3. The Union of India, rep. by
the Chairman, Telecom
Commission, New Delhi.

..Respondents.

Counsel for the applicant : Mr.K.Venkateswara Rao

Counsel for the respondents : Mr.B.N.Sharma,Sr.CGSC.

CORAM:-

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

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

R

..2/-

A

ORDER

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

Heard Mr.K.Venkateswara Rao, learned counsel for the applicant and Mr.Jacob for Mr.B.N.Sharma, learned counsel for the respondents.

2. The applicant in this OA was appointed in the erstwhile CPWD as LDC w.e.f., February, 1962. Thereafter the DoT took over the functions of the Civil work of the CPWD by forming a Cell. But the applicant and others who were posted to the cell were considered on deputation. However the cell performing the duties of the civil department of the erstwhile CPWD was transferred to the control of DoT and they formed part of DoT and separate branch called Civil Zone was formed way back in the late 1970. However they were called by the earlier designation and the applicant was called by various designations and the last one being the designation as Office Superintendent. He was in the scale of pay of Rs.1600-2660/-. By the order No.16-21/92-CSE dated 16-03-94 (Annexure-III) the extension of the TOA pattern to the Clerical Staff available in the other wings of the DoT was also extended to Telecom Civil Wing and those who recruited prior to 1-10-86 was brought to the TOA pattern of the Civil Wing of the DoT. The applicant having been brought as TOA pattern was designated as TOA Grade-III in the scale of pay of Rs.1600-2660/-. The pay of the applicant earlier was fixed by the fixation memo No.9(6)CH/96/2246 dated 12-2-96 (Annexure-II) under FR 22 (I)(a)(i) when posted as TOA Grade-III. However that fixation was reversed and it was observed that the official may be treated as converted to TOA pattern from the date of assumption of charge as TOA and hence his pay fixation was altered fixing him in the same stage of pay which he was drawing before he was converted as TOA Grade-III from the

① 1

46

earlier post of Office Superintendent in the scale of pay of Rs.1600-2660/- by the revision of the pay fixation memo Bearing No.15(PF)/CE(Civil)/97/914 dated 22-10-97 (Annexure-I).

3. This OA is filed to set aside the impugned memo No.15(PF)/CE(Civil)/97/914 dated 22-10-97 and for a consequential declaration that the earlier fixation made by the Lr.No.9(6)/SETECH/95/2246 dated 12-2-97 (Annexure-II) issued by R-2 is perfectly legal valid and monetary benefits arising on that basis should not be denied to him.

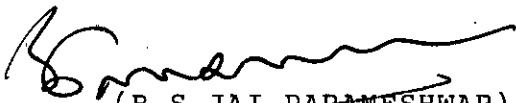
4. An interim order was passed in this OA on 28-10-97 whereby the recovery due to the revised pay fixation by the impugned order dated 22/23-10-97 is suspended until further orders.

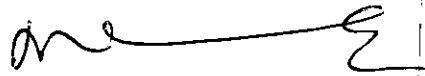
5. The reply statement filed in this OA is inadequate. The respondents very leisurely filed this reply statement without considering the facts of this case. Hence, the reply statement filed may not be ^{of} much assistance to the Bench. However, the Supreme Court in the reported case 1998 (5) SCC 242 (Union of India and Others Vs. Ashoke Kumar Banerjee) had held that the fixation of pay even for promotion under FR 22 (I)(a)(1) is permissible only if (1) the promotees ~~who~~ ^{the} shoulder higher responsibilities (2) the promoted post is in the higher grade compared to the post from which an employee is promoted. In the present case the applicant who was working as Office Superintendent in the scale of pay of Rs.1600-2660/- was converted to as TOA Grade-III and he was asked to perform ~~some~~ ^{same} duties which he was performing earlier. That means the applicant did not shoulder any higher responsibility when his designation was converted as TOA Grade-III from that of Office Superintendent. The applicant also was posted as TOA

D

Grade-III in the same scale of pay of Rs.1600-2660/-. It is not a higher scale compared to the scale of pay of which he was holding as Office Superintendent. Hence both the conditions stipulated by the ^{Hon'ble} Supreme Court has not been fulfilled by the applicant. Hence, the fixation of his pay as per the impugned order in our opinion is unassailable. Hence, the OA is only liable to be dismissed and accordingly it is dismissed. No costs.


6. The excess amount paid to him upto 28-10-97 when the interim order was passed should not be recovered from the applicant as that fixation was done by the respondents without adherence to any rule. The above direction for not recovering the excess amount paid upto 28-10-97 is very relevant in view of the inadequate reply filed by the respondents in this OA.


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


(R. RANGARAJAN)
MEMBER (ADMN.)

15623
Dated : The 15th June, 1999.
(Dictated in the Open Court)

spr


1760

2 ✓
1st and 11nd Court.

Copy to:

1. HONND
2. HHRA M(A)
3. HOSOP M(J)
4. D.R. (A) ✓
5. SPARE ✓

Typed By
Compared by

Checked by
Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD.

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

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

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

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

DATED: 15-6-99

ORDER/JUDGMENT

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

IN

O.A.NO : 1428/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

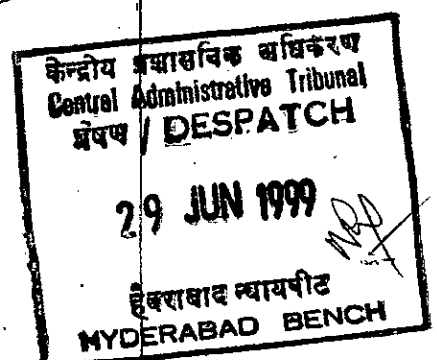
DISMISSED ✓

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

(7 copies)



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

ORIGINAL APPLICATION NO. 1428. OF 1997.

Applicant(s)

V/S

Respondent(s)

N.V.S. Sastry.
By Advocate Shri:

The Chief Engineer, 2 Telecom Civil
Zone, 5-1-885, Koti. Hyd. & 2 others.

K. Venkateswara Rao.

(By/Central Govt. Standing Counsel)

To.

Mr. N.R. Devaraj, Sr. C^{GS}C.

1. The Chief Engineer, Telecom Civil Zone, 5-1-885, Koti. Hyderabad.
2. The Superintending Engineer, Telecom Electrical Circle, Hyderabad.
3. The Chairman, Telecom Commission, Union of India, New-Delhi.

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

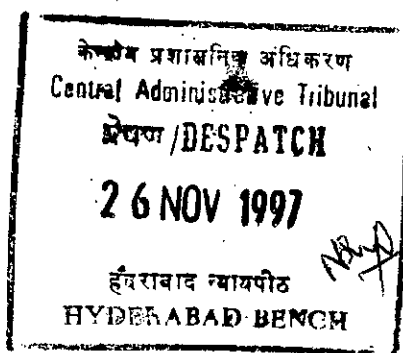
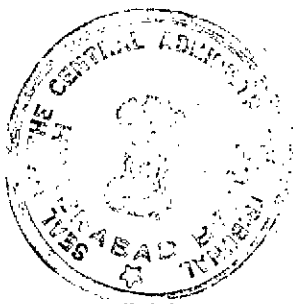
Notice is hereby given to you that if you wish to contest the application, you may file your reply along with the document in support thereof and after serving copy of the same on the applicant or his Legal practitioner within 30 days of receipt of the notice before this Tribunal, either in person or 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 **Twenty Eighth**, day of **October**, 1997.

//BY ORDER OF THE TRIBUNAL//

Date: 12-11-97.

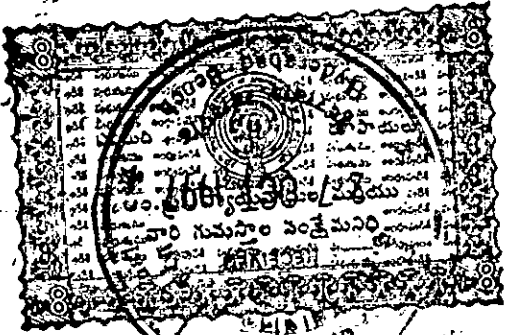
FOR REGISTRAR.



S. R. No.

DISTRICT

Andhra Pradesh
Administrative Tribunal
at Hyderabad



VAKALAT

IN

O. A. No.

of 199

ACCEPTED

K. Venkateswaraiah
S. Murthy

APPLICANT
Advocate for **PETITIONER**
RESPONDENT

APPLICANT
Advocate for **PETITIONER**
RESPONDENT

Address for Service of the said Advocate is at

K. Venkateswaraiah
T. V. V. S. Murthy
2-2-1136/37
Pagera Lakshminarayana
N. P. N. Lakshminarayana
Hyderabad

Central

**In the Andhra Pradesh Administrative Tribunal
at Hyderabad.**

O. A. No. 1428 of 1997

N.V.S. Sathy

VERSUS

(1) The chief Engineer and 2nd
Kotwal Hyderabad 20th

I/We

N.V.S. Sathy

Applicant

Petitioner

Respondent

Applicant

Petitioner

Respondent

In the above Petitioner do hereby appoint and retain.

① C Ven / Lakshman
② T. V. V. S. Murthy

Advocate's of the High Court to appear for me/us in above Petition and to conduct and prosecute (or defend) the and all proceedings that may be taken in respect of any application connected with the same any degree or order passed therein including all application for return of documents or the receipt or any moneys that may be payable to me/us in the said Appeal/Petition and also to appear in all application under Clause XV of the Letter Patent and in all applications for review and for leave to the Supreme Court of India.

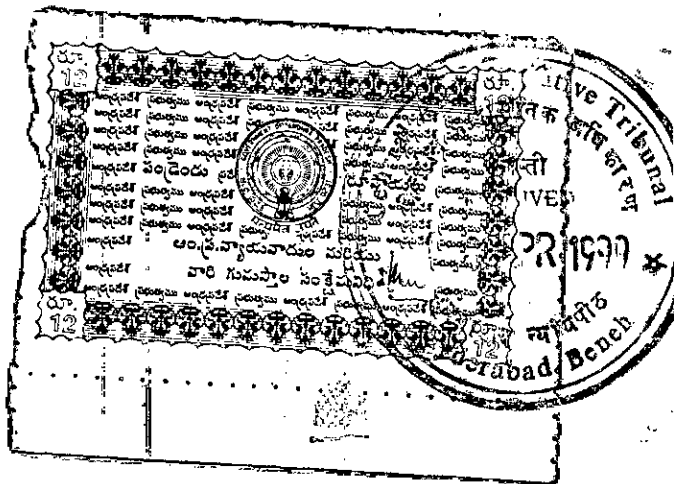


[Signature]

I Certify that the contents of this VAKALAT were readout and explained in English and Telugu in my presence to the executants who appeared perfectly to understand the same and made his/her/their signature or mark in my presence.

Executed before me this 28th day of Oct 1997.

[Signature]
Advocate's Hyderabad.



In the CAT
at Hyderabad

O.A. No. 1428 of 1997



Memo of Appearance

Filed on 6-4-99

B. Narasimha
Advocate

Sharma
Sr. CGSC

Central Administrative Tribunal, Hyderabad Bench
HYDERABAD

O.A.NO.

1428

OF 1997

BETWEEN

N.V.S. Shastri

Applicant(s)

Vs.

Chief Engineer (Civil)
Hyd. & others

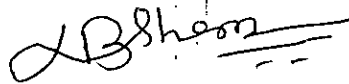
Respondent(s)

MEMO OF APPEARANCE

I, B.Narasimha Sharma, Advocate having been authorised by proceedings of Government of India in F.No. 28(5)/98-Judl. Dt. 11-12-1998 notified under Sec. 14 of the Administrative Tribunals Act, 1985, hereby appear for ~~Applicant~~ No./Respondent No. 1 to 3 and undertake to plead and act for them in all matters in the aforesaid case.

Place: Hyderabad

Date: 6-4-99


Signature & Designation of the Counsel

B.NARASIMHA SHARMA
Senior Standing Counsel for
Central Government.

Address of the Counsel for Service:

312, Nilgiri,
Aditya Enclave,
Amecrpet,
Hyderabad - 38.

Sl. 1428/97

Between:

Dated: 28-10-1997

S. V. S. Sastry

.. Applicant.

1. The Chief Engineer, Telecom Civil Zone,
5-1-895, Hyderabad.

2. The Superintending Engineer, Telecom
Electrical Circle, Hyderabad.

3. The Chairman, Telecom Commission,
New Delhi.

.. Respondents.

Counsel for the applicant : Mr. K. Venkateswara Rao

Counsel for the respondents : Mr. M. R. Devraj, Sr. Asst. Secy.

ORDER:

THE TRIBUNAL, HYDERABAD, BY ORDER: MEMBER (A)

THE TRIBUNAL, HYDERABAD, BY ORDER: MEMBER (B)

The Tribunal made the following order:-

Heard Sri K. Venkateswara Rao, for the applicant and Sri M.
Satyanarayana for Sri M. R. Devraj, for respondents.

2. Admit. The recovery due to the revised pay fixation by the
impugned order No. 15(PF)/CE (Civil)/97/914 dated 22/2-10-97
(Annexure-I Page-7 to the O.A.) if any, is suspended until further
orders.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY

[Signature]

न्यायालय अधिकारी
COURT OFFICER

केन्द्र: प्रशासनिक अधिकरण
Central Administrative Tribunal
HYDERABAD BENCH

SP/- K. V.

Deputy Registrar (J)

