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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.596/99

DATE OF ORDER : 23.3.2000

Between :-

T.Sambasiva Rao

..Applicant

And

1. The Chief General Manager,
Telecommunications, AP Circle,
Abids, Hyderabad.
2. Smt.G.Sulochana

..Respondents

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Counsel for the Applicant : Shri V.Venkateswara Rao

Counsel for the Respondents : Shri B.N.Sarma, Sr.CGSC

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CORAM:

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

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

(Order per Hon'ble Shri R.Rangarajan, Member (A)).



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(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Sri V.Venkateshwar Rao, learned counsel for the applicant and Sri B.N.Sarma, learned standing counsel for the Respondents.

2. The applicant in this OA joined as Telegraph Asst. with effect from 24.6.1970. Thereafter he was converted as a Telegraphist on 25.11.1975. The applicant was promoted under OTBP Scheme on 1.4.1988 and BCR Promotion on 17.6.1992. The applicant belongs to ST community and he was to be promoted against 10% quota to be placed in the Grade-IV scales against the reservation for ST community for which his case was rejected and the case of Respondent No.2 who was also ST candidate was recommended for appointment in the Gr.IV scales.

3. The applicant earlier filed OA 1075/95 on the file of this Bench to grant him the Grade-IV scales ^{of pay} in preference to Respondent No.2 herein. He submitted a representation and that OA was disposed of by order dated 4-9-1998 directing the respondents to dispose of the representation with liberty to challenge the reply if it is adverse to him.

4. The representation of the applicant was disposed of by the impugned order dated 5.1.1999 (Annexure-VI page-17 to the OA) rejecting his case for promotion to Grade IV scale against ST quota.

5. Aggrieved by that order the applicant has filed this OA to set aside the impugned order dated 5.1.1999 issued by Respondent No.1 treating it as illegal, arbitrary and for a consequential direction to promote him to the Grade IV scale with all consequential

benefits such as seniority, promotion, arrears of pay and allowances etc.,.

6. A reply has been filed in this OA. It is an admitted fact that the applicant came to the Telegraphist cadre at his request from the cadre of Telegraph Assistant to which he was initially appointed. The applicant himself got converted as Telegraphist with effect from 25.11.1975. Respondent No.2 was appointed as Telegraphist with effect from 10.10.1973. Hence the respondents submit that the applicant is junior to Respondent No.2 in the cadre of Telegraphist. Thus in the basic cadre of Telegraphist the applicant is junior. When promotion to Grade IV is to be effected, the basic cadre seniority is to be noted and on that basis the senior~~most~~ suitable candidate has to be promoted. As the applicant was junior to Respondent No.2 and Respondent No.2 was also~~not~~ found suitable, she was promoted against ST quota in preference to the applicant herein.

7. Though the applicant has filed a rejoinder stating that his whole service has to be taken note of for deciding the seniority, there is no rule quoted by him to say so. By that contention he means to say that the reckoning of the seniority should start from the date of his initial appointment in the year 1970 as Telegraph Asst. and if that is taken, he is senior to Respondent No.2 and hence he should have been appointed in Gr.IV scale in preference to Respondent No.2 herein.

8. It is a fact that the Telegraph Asst. and Telegraphist are two different cadrs and hence seniority units are also different. If the applicant had opted to become Telegraphist, he cannot demand to be appointed as Telegraphist with the original seniority. If such

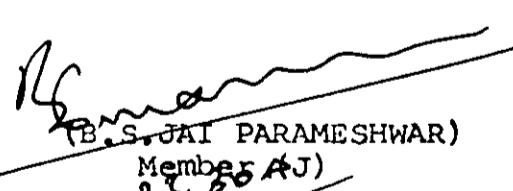
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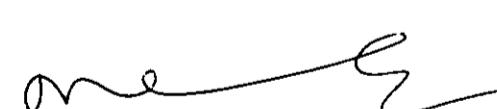
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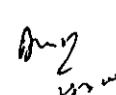
a view is taken then the seniority position of the Telegraphists will be ~~be~~ prejudiced. Hence, under such circumstances the employee who comes to the other cadre/seniority unit must necessarily be shown ^{at} ~~in~~ the bottom of the seniority unit in the transferred cadre. Only if the transfer is on administrative grounds then such employee can get seniority reckoning the services ~~be~~ rendered in the earlier cadre. In the present case no material is shown that the applicant ^{wm} converted as Telegraphist on Administrative Grounds. Hence it is to be ~~considered~~ ^{held} that the applicant came on his own request as Telegraphist. Respondent No.2 having joined earlier to the applicant in 1973 in the cadre of Telegraphist ^{had been} shown senior to the applicant. It is stated by the respondents ^{that} even though the seniority list was issued earlier showing the applicant junior to Respondent No.2, the applicant did not protest ~~the~~ the same. Having accepted the same, now he cannot ask for promotion in the place of Respondent No.2. We fully agree with the submissions made by the Respondents.

9. For the reasons stated above, we dismiss the OA. No order as to costs.


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


(R. RANGARAJAN)
Member (A)

Dated: 23rd March, 2000.
Dictated in Open Court.


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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH,
HYDERABAD.

1ST AND 2ND COURT

TYPED BY
COMPILED BY

CHECKED BY
APPROVED BY

COPY TO

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

2. HRRN (ADMN) MEMBER. THE HON'BLE MR. R. RANGARAJAN
MEMBER (ADMN)

3. HBSJP. M. (JUDL)

4. D.R. (ADMN) THE HON'BLE MR. B.S. JAI PARAMESHWAR
MEMBER (JUDL)

5. SPARE

6. ADVOCATE

7. STANDING COUNSEL DATE OF ORDER 23/3/00

MA/8A/CD NC

IN

C.A. NO. 596 (99)

ADMITTED AND / INTERIM DIRECTIONS
ISSUED

A ALLOWED

S. P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

00053 / 3 SELECTED

NO ORDER AS TO COSTS

**केंद्रीय प्रजासत्तिक अधिकारण
Central Admnistrative Tribunal
हैदराबाद व्यापरी बैठक
HYDERABAD BENCH**

- 4 APR 2000
Despatch Nop
~~2000 APR 2000~~
FURTW/STAFFAL SECTION