

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ; HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.620/99

DATE OF ORDER : 5.2.2001

Between :-

P.Venkataswamy

...Applicant

And

1. Union of India re. by its
Chief General Manager, Telecom,
AP Circle, Hyderabad.
2. Telecom District Manager,
Telecom, Nellore.

...Respondents

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Counsel for the Applicant : Shri S.Ramakrishna Rao

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

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CORAM:

THE HON'BLE JUSTICE SHRI V.RAJAGOPALA REDDY ; VICE-CHAIRMAN

THE HON'BLE SHRI M.V.NATARAJAN ; MEMBER (A)

(Order per Hon'ble Justice Shri V.Rajagopala Reddy, VC).

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...2.



(Order per Hon'ble Justice Shri V.Rajagopala Reddy, VC).

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This O.A. is filed seeking parity of pay of Rs.2000/- pm with one Sri A.V.N.Sarma. The case of the applicant is that though he is senior to Sri A.V.N.Sarma in the grade of Telephone Operator having been appointed earlier to him, his pay ⁴⁷²⁰ ~~is~~ fixed in 1997, by circular dated 24.4.1997 with retrospective effect from 1990, in the ~~higher~~ ^{basic} scale at Rs.2,000/- ^{p.m.} and the applicant's pay has been fixed at Rs.1,720/-. Learned counsel places heavy reliance upon the circular dated 8.9.1994 which was communicated by letter dated 24.4.1997.

2. The applicant has been appointed as Telephone Operator in 1958 whereas Sri AVN Sarma ⁴⁷²⁰ ~~is~~ appointed in 1959 as Telephone Operator in the same division of Hyderabad Circle. The applicant as well as Sri AVN Sarma opted to OTBP scale with effect from 30.11.1993. In pursuance of the above circular, it was clarified that those working as Phone Inspectors/Transmission Assistants ~~et~~, are ~~also~~ ^L entitled for fixation of pay on par with their counterparts who continued to work in the basic cadre and completed 16 years of service. While fixing the pay of Sri AVN Sarma who continued to be in the cadre of Telephone Operator till his retirement, his pay was fixed at Rs.2,000/- pm. Though the applicant continued and retired as Telephone Operator and senior to Sri AVN Sarma, his pay remained at Rs.1,720/- till the applicant's retirement in 1997. Aggrieved by the higher fixation of pay to Sri AVN Sarma, the applicant filed this O.A.

3. The case is contested by filing the reply wherein it is stated that the seniority in the Telephone Operators cadre was based upon divisional cadre and not ~~based~~ upon the circle ...3.

CAH

gradation list. The applicant belongs to Nellore Division whereas Sri AVN Sarma ~~belongs~~^L to Kurnool Division. The pay of Sri AVN Sarma has been fixed with reference to his seniority in Kurnool Division whereas the applicant's pay has been fixed with reference to his seniority in Nellore Division. Hence the applicant cannot compare himself with Sri AVN Sarma and he cannot^{also} be said senior to Sri AVN Sarma.

4. We have given careful consideration to the arguments of counsel for either side. The circular dated 8.9.1994, ~~which~~^L reads as under :-

Your attention is invited to this office letter No.1-71/83-NCG (Vol-II) dated 20.11.90 and letter No.15-5/94-TE-II dated 8.9.94 on the above subject.

Union/Federations have brought to the notice of this office that field units are still experiencing difficulties in fixation of pay of the PI/AEA/TA on their opting to OTBP of their basic grade.

The matter has been re-examined in consultation with Telecom. Finance and it is clarified that consequent to this office order dated 20.11.1990 referred above, the pay of PI/TA etc. may be fixed on their option to OTBP of their basic cadre, not less than the pay of their counterparts who continued to work in the basic cadre and are placed in the OTBP scale on completion of 16 years of their service. The pay should be drawn for such officials consequent to such pay fixation accordingly.

This issues with the concurrence of Telecom. Finance vide their O.O.No.626/FA.I/97 dated 20.3.97.

Yours faithfully,
Sd/-
(R.C.Malhotra)
Asst. Director General (PAT)

It is not disputed by the learned counsel for the respondents that the Telephone Operators ~~are~~ also come within the purview

of this circular and ~~his~~^{their} pay also should be fixed in accordance
.....4.

- 4 -

as per ^{the applicant's} this circular and that ~~the~~ pay should not be fixed lesser than that of his counter part who continued to be telephone Operator and who opted to OTBP on completion of 16 years. The applicant also opted for OTBP on completion of 16 years. Hence his pay has to be fixed in accordance with his junior. ^{But} ~~Hence~~ the only question is whether the applicant is senior to Sri AVN Sarma whose pay has been fixed at Rs.2,000/- whereas the applicant's pay has been fixed at Rs.1,720/- pm. Para-10 of the reply statement reads as under :-

10. It is submitted in reply to para 4.3 of the OA that the Telephone Operator cadre being a divisional (now SSA) cadre applicant can compare only with those officials working within that SSA. The circle gradation list is prepared only for promotion to the next higher cadre of Telephone Supervisor which was a circle cadre. As such applicant cannot compare within Shri ABN Sarma who belongs to Kurnool SSA.

From this it is clear that the seniority has to be decided only on the basis of the division in the cadre of Telephone Operator. Since both of them are working in two different divisions though they were appointed in Hyderabad Circle, their seniority cannot be compared. However, as seen from the circle seniority, the applicant appears to be senior to Sri ABN Sarma but as far as pay fixation is concerned, it has to be based upon the divisional seniority as they are working in the division and their further promotions in the division are based upon the divisional seniority. Hence in the absence of any proof that Sri ABN Sarma is junior to the applicant in the same division, the applicant cannot have parity of scales, and the O.A. is accordingly dismissed. No order as to costs.

(Signature)
(M.V. NATARAJAN)
Member (A)
Dt. 5.2.2001

(Signature)
(V. RAJAGOPALA REDDY)
Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDR 3RD BENCH:HYDERABAD

COPY TO

1ST AND 2ND COURT

1. HVRGRJ

TYPED BY
COMPALED BY

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APPROVED BY

2. HBSJP:MTTIER (JUDL)

3. HMVN :MEMBER: (ADMIN)

THE HONBLE MR JUSTICE V. RAO GOPAL REDDY
VICE-CHIEFMAN

4. D. T. (ADMIN)

THE HONBLE MR J. S. J. P. R. MEGHWA
MEMBER (JUDL)

5. SPARE

THE HONBLE MR M. NATARAJAN
MEMBER: (ADMIN)

6. ADV CATE

7. STANDING COUNSEL

DATE OF ORDER: 5/2/2001

MA/3A/CP:ND:

IN

CA. NO :

62098

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C. P. CLOSED

I. A. CLOSED

DISP. S. D. WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

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