

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH

JAIPUR

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Date of Order : 1.6.2001  
~~5.2001~~

1. O.A.NO. 212/1995
2. -M.A.No. 222/1995  
( IN OA NO. 212/1995)

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1. Narendra Kumar aged about 32 years S/o Shri Chaturbuj Agarwal, R/o D-6, Sanjay Colony, Pani Pach, Jaipur, at present posted as Junior Telecom Officer, (Micro Wave Maintenance) C/o Office of Divisional Engineer, Microwave Maintenance, BMTD Complex, M.I. Road, Jaipur.
2. B.L.Gupta aged about 32 years, S/o Shri Hari Ram Modi, R/o House No. 31/59/3, Varun Path, Mansarovar, Jaipur, at present working as JTO C/o CGMT Jaipur.
3. D.K.Paliwal, Aged about 32 years, S/o Shri S.L.Paliwal, C/o EWSD Exchange, Udaipur, working as JTO (EWSD), Telephone Exchange Building, Near Court Chouraha, Udaipur.
4. S.C.Gupta Aged about 32 years, S/o Shri R.P.Gupta, R/o C-1-A, Sarswati Colony, Tonk Phatak, Jaipur, at present working as JTO (MIS), C/o CGMT, Jaipur.
5. K.K.Basar, aged about 32 years, S/o Shri Kushan Sharma, R/o 41 Arjun Nagar, Near Sawai Madhopur Railway Line, Tonk Phatak, Jaipur, At present working as JTI (OPC Installation-II), GMTD, Jaipur.
6. R.K.Sahu, aged about 32 years, S/o Shri L.R.Sahu, R/o 94/160, Agarwal Farm, Mansarovar, Jaipur, At present working as JTO C/o DET, SW, Jaipur.
7. K.K.Jain, aged about 31 years, S/o Shri Labh Chand Jain, Pole Bazar, Jaipur, at present working as JTO, GMTD, Jaipur.
8. B.L.Meena aged about 33 years S/o Shri Jai Narain Meena, R/o A-65, Jai Ambay Nagar, Lal Singh Jodow Colony, Jaipur, At present working as JTO (Telecom Project), C/o Director, Telecom Project, Jaipur.
9. O.P.Chabra, aged about 31 years, S/o Shri Mohan Lal Chabra, R/o Lajpat Nagar, Alwar, At present working as JTW (MW), C/o SDE (Micro Wave), Alwar.
10. Rakesh Sethi, aged about 31 years, S/o Shri S.K.Sethi, at present working as JTO (MARR), Bharatpur, R/o 409, Krishna Nagar, Bharatpur.
11. S.K.Sharma, aged about 32 years, S/o Shri Prem Narayan Sharma, R/o C/o Lt.Ram Swaroop Ji Sharma, Senior Advocate, Gumanpura, Kota. At present working as JTW (West), Kota.
12. K.L.Saini, aged about 33 years, S/o Shri M.L.Saini, R/o 52, Pratap Nagar-II, Tonk Phatak, Jaipur, At present working as JTO in GMTD, Jaipur.

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13. S.C.Patra, aged about 32 years, S/o Shri Prakash Patra, R/o C/o Rakesh Chawla, Chawala Kirana Store, Sabji Mandi, Kota, At present working as JTO (RLV), Kota.
14. Peeyush Saraswat, aged about 31 years, S/o Shri M.K.Saraswat, R/o 47, Shopping Centre, Ram Nagar, Sastri Nagar, Jaipur, at present working as JTO(Computer) C/o GMTD, Jaipur.
15. R.A.Gupta Aged about 32 years, S/o Shri H.L.Agarwa, R/o A-186, Mahesh Nagar, Tonk Phatak, Jaipur. At present working as JTO (RP) C/o CGMT, Jaipur.
16. Raj Kumar Sharma aged about 31 years, S/o Shri P.S.Sharma, R/o 4-Ta-10, Jawahar Nagar, Jaipur, at present working as JTO OK-II (Cable Centre ), Sangneri Gate, Jaipur.
17. Babu Khan aged about 32 years, S/o Shri Mohd. Umar, R/o C-134, Vidhaj Dhan Nagar, Jaipur, at present working as JTO, C/o SDE (Plan), Director (TP), Jaipur.
18. O.P.Gupta, aged about 31 years, S/o Shri Gulab Chand Ji, R/o 134-B, Private Sector, Kota, at present working as JTO C/o SDE (MW), Project Kota.
19. V.K.Sharma aged about 32 years, S/o Shri Janki Prasad Sharma R/o 151 Ranjeet Nagar, Bharatpur, at present working as JTO (Telegraph), Bharatpur.
20. Balram Karamchandani, aged about 31 years, S/o Shri Laya Ram R/o A-220, Shastri Nagar, Jodhpur, at present working as JTO, Jodhpur.
21. S.K.Pareek, aged about 32 years, S/o Shri L.N.Vyas, R/o H-90, Shastri Nagar, Jodhpur, at present working as JTO, Tax, Jodhpur.

.....Applicants.

V E R S U S

1. Union of India through the Secretary, Telecommunication, Sanchar Bhawan, 20, Ashoka Road, New Delhi.
2. The Chief General Manager (Rajasthan Circle), Telecommunication, Sardarpatel Marg, Jaipur.
3. R.C.Sharma, at present working as JTO in the office of Optical Fibres Cable (Maintenance), Jaipur.
4. Kaptan Singh, JTO, Coaxial, Jaipur.
5. K.L.Sonk SDE, Microwave Project, Bikaner.

.....Respondents.

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Mr.Vinod Goyal, proxy for Mr.Virendra Lodha, for applicants.  
Mr.Arun Chaturvedi, counsel for the official respondents.  
None is present for the respondents No. 3 to 5.

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PER HON'BLE MR. GOPAL SINGH :

In this application under section 19 of the Administrative Tribunals Act, 1985, applicants have prayed as under :-

"i) by an appropriate order or direction the Hon'ble Tribunal. may kindly call for the entire record and after examining the same be pleased to declare the action of the respondents null and void in so far as it relates to unlawfully withholding the order of actual appointment not being issued in favour of the applicants irrespective of the facts that they had successfully completed their training with effect from 8.3.85, 27.4.85 and 25.5.85 (as the case may be) of the applicants as the same being in clear contravention/ violation of the provisions of Articles 14 and 16 of the Constitution of India,

ii) by further appropriate order or direction a mandamus be issued to the respondents to issue order of appointment immediately on the date of the applicants' successfully completing the period of training i.e. with effect from 8.3.85, 27.4.85 and 25.5.85 (as the case may be ) and the order which is now going to be issued i.e. the actual appointment order immediately on successfully completion of period of training shall be treated as the order of initial appointment for all practical purposes in case of each individual applicant including for the purpose of salary, releasing of annual grade increments, seniority, for continuity of service and the aforesaid intervening period which has to be treated to be a break in service for the purpose of denying the grade of Rs. 1640-2900 with effect from 1.1.1986 be declared null and void and be quashed and set aside.

iii) by further appropriate order or direction a mandamus be issued to the respondents to treat the applicants as appointees by issuing actual order of appointment immediately with effect from the date i.e.

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when they have successfully completed their training i.e. w.e.f. 8.3.85, 27.4.85 and 25.5.85 (as the case may be ) and there upon give all consequential benefits which otherwise they were entitled for on account of arbitrarily withholding the order of appointment qua the applicants vis-a-vis persons who were given order of appointment as would born out from orders dated 3.5.85, 10.5.85 and 1.6.85 respectively who had admittedly completed period of training much after than that of applicants and they have been given not only all other benefits attached to the said post but also are being considered for the purpose of giving the grade of Rs. 1640-2900 with effect from 1.1.1986 and in view of the aforesaid fact also the applicants are entitled for the grade of Rs. 1640-2900 with effect from 1.1.1986 with all other consequential benefits thereto,

iv) by further appropriate order or direction the respondents be directed to consider the case of the applicants for placement in the scale of Rs. 2000-3500 for the purpose of their completing 12 years of service immediately by counting the aforesaid 12 years of service from the date when they have completed period of training i.e. from 8.3.85, 27.4.85 and 25.5.85 (as the case may be ) and only thereafter the respondents be directed to compute 12 years from the date when they have completed the aforesaid period of training successfully and accordingly a mandamus be issued to give the aforesaid scale thereafter with all consequential benefits thereto,

v) by further appropriate order or direction a mandamus be issued to the respondents to condone the break between completion of training and the order of actual issuance as in the instant given case once the applicants admittedly completed training period successfulluy with effect from 8.3.85, 27.4.85 and 25.5.85 respectively (as the case may be) while the

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order of appointment has been issued on 8.12.86 (after a lapse of almost 20 months) for no fault of the applicants, in view of the aforesaid fact the aforesaid intervening period i.e. of 20 months be condoned and be treated for all practical purposes as continuity of service and the applicants are entitled for salary during the aforesaid intervening period i.e. of 20 months, seniority and all other benefits attached to the said post which otherwise they are entitled for had the order of appointment been issued in favour of the applicants immediately after completion of period of training successfully by the applicants,

vi) by further appropriate order or direction the respondents be directed to pay the panel interest @ 36% per annum on the amount which has been withheld arbitrarily on account of non issuance of actual appointment order in favour of the applicants immediately on date preceeding of their successfully completion period of training alongwith an exemplary cost which has been incurred in filing of the present O.A. before the Hon'ble Tribunal,

vii) any order prejudicial the rights of the applicants is passed during the pendency of the O.A., the same may kindly be taken on record and be quashed and set aside.

ix) any other order or direction which may be considered just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicants,

x) cost of the O.A. may kindly be awarded to the applicants."

2.

The applicants have also filed a Misc.Application No.

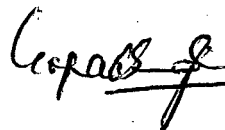
*Capable*

222/1995 in this Original Application praying for condoning the delay in filing the Original Application. We would first like to deal with the application for condonation of delay.

3. We have heard the learned counsel for the parties and perused the applications carefully.

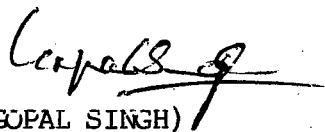
4. It has been stated by the applicants in the Misc.Application that a detailed representation in this regard, was submitted to the authorities on 29.4.1985 and no reply was received thereto. Thereafter, on the advise of the counsel the present O.A. has been filed on 17.4.1995 i.e. almost 10 years after the representation had been filed before the authorities. It has been pointed-out by the official respondents in their reply that the applicants were appointed on 8.12.1986, thus, sending of representation on 29.4.1985, does not create any legal right in their favour. As a matter of fact, the cause of action, if any, arose to the applicants on 8.12.1986 and not prior to it. It has also been pointed out by the respondents No. 1 and 2 that the application has not been filed within one year of the date of cause of action nor any proper explanation has been given for not filing the O.A. within the prescribed time. It has, therefore, been contended by the respondents No. 1 and 2 that the M.A. for condonation of delay is liable to be dismissed.

5. It is a fact that the cause of action had arisen to the applicants on their appointment on 8.12.1986 as such, their representation dated 29.4.1985, is of no consequence. They should have represented the matter to the authorities after they had been appointed. Further, the applicants have approached this Tribunal almost ten years after the so called representation was submitted to the authorities. We are firmly of the view that the case is hit by



limitation and, therefore, can be dismissed on this count alone. The applicants, herein, are seeking continuation in service from the date immediately after completion of their training, as has been done in respect of the private respondents No. 3 to 5. The private respondents had been appointed earlier immediately after completion of their training while the applicants were appointed much after these private respondents were appointed. During the intervening period from the appointment of private respondents/applicants till submission of this O.A., ten years have elapsed and at this juncture, the seniority position of the applicants' vis-a-vis the private respondents, has already been settled. As such, we cannot permit the applicants to un-settle the settled position of seniority. As a matter of fact, the applicants had been sleeping over their rights. In the circumstances, we have no option but to dismiss the application.

6. The Misc.Application No. 222/1995 for condoning the delay in filing the O.A. and consequently, the Original Application, are hereby dismissed. The parties are left to bear their own cost.

  
(GOPAL SINGH)  
Adm.Member

  
(B.S. RAIKOTE)  
Vice Chairman

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