

(12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 14/7/2007

OA 249/95

Jagdish Prasad Yadav, Sr.Accounts Officer o/o Chief General Manager, Rajasthan Telecom Circle, Jaipur.

... Applicant

Versus

1. Union of India through Secretary, Deptt. of Telecommunications, Ministry of Communications, New Delhi.
2. Director General, Deprt. of Telecommunications, Sanchar Bhawan, New Delhi.
3. Chief General Manager Telecom, Rajasthan Telecom Circle, Jaipur.
4. Sohanlal Prajapati, Sr.Accounts Officer o/o Telecom District Engineer, Barmer.

... Respondents

CORAM:

HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER

HON'BLE MR.S.BAPU, ADMINISTRATIVE MEMBER

For the Applicant

... Mr.K.L.Thawani

For the Respondents

... Mr.V.S.Gurjar

ORDER

PER HON'BLE Mr.S.BAPU, ADMINISTRATIVE MEMBER

The reliefs sought in this application are as follows :-

- "1. That the impugned order Annexure A-1, Annexure A-2 are discriminatory and are required to be modified in terms of Ministry of Finance memo No.F-6/82-IC/91 dated 22.9.92 as such the respondents be directed by issuance of an appropriate order or direction to modify the memo accordingly as the same are violative of article 14 and 16 of the Constitution of India.
2. That the respondents be directed by issuance of an appropriate order or direction to provide notional fixation of pay of the humble applicant with effect from 1.11.1992 instead of 24.6.1994 viz. the date of memo Annexure A-1."
2. The applicant was appointed as Postal Clerk on 3.10.68. After he passed the P&T Accountants Service Examination, he was promoted as Junior Accountant w.e.f. 1.7.76 on regular basis. Later, he was promoted as Junior Accounts Officer w.e.f. 10.7.78 on regular basis. Thereafter, he was

promoted as Accounts Officer on regular basis w.e.f. 4.10.89. He joined duty as Accounts Officer on regular basis on 27.11.89. The applicant was further promoted as Senior Accounts Officer by order dated 24.6.94 and a further order was issued on 29.7.94 giving effect to the said promotion order.

3. The applicant claims that he is entitled to notional fixation of pay in the promotional grade w.e.f. 1.11.92 as 143 posts of Accounts Officer have been upgraded w.e.f. 1.4.92. This was in pursuance of an OM No.F-6/82-IC/91 dated 22.9.92, issued by the Ministry of Finance, Government of India, providing promotional grade to the Accounts Officers on completion of three years of service by converting 80% of the posts of Accounts Officer in the promotional grade. The applicant has also alleged that the benefit under the aforesaid OM of the Finance Ministry was given to another Accounts Officer namely Sohanlal Prajapati, who had been promoted in April, 1994, whereas similar benefit has been denied to him.

4. The claim of the applicant is resisted by the respondents on the ground that the applicant was validly appointed to the grade of Senior Accounts Officer w.e.f. 24.6.94 only and there has been no discrimination in the case of the applicant and the benefit of retrospective promotion has been withdrawn on receipt of clarification by the Finance Ministry.

5. We have heard the learned counsel for the parties and have considered the matter carefully.

6. It is true, the applicant was approved for promotion as Senior Accounts Officer carrying the pay scale of Rs.2200-4000 by the Department of Telecom OM No.10-1/94-SEA dated 24.6.94 and was subsequently promoted by OM dated 29.7.94, issued by respondent No.3. We, however, find from paras 4 and 5 of the OM dated 24.6.94 that the promoted officers were to get the benefit of upgradation of posts on 'as is where is' basis. Paragraphs 4 & 5 of the OM dated 24.6.94 read as follows : -

"4. 143 posts of Accounts Officers are upgraded to the scale of Pay of Rs.2200-4000 (Sr.Accounts Officer, Group "B") w.e.f. 01-04-1992 on as is where basis to accommodate the Accounts Officers, promoted as Sr.ACcounts Officers in the scale of pay of Rs.2200-4000 in this memo.

5. Orders in respect of these Accounts Officers, who have not completed the requisite service of three years as on 01-10-1993, and

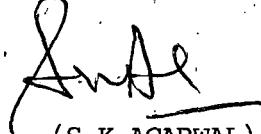
for whom recommendations of the DPC have been received from the circles, will be issued after obtaining relaxation in the Service Condition from DOP&T."

7. We put a specific querry to the learned counsel for the respondents whether the applicant is within the 143 posts which stood upgraded. He replied that the applicant was within the 143 upgraded posts. If that is so, we find no reason to deny the applicant the benefit of promotion in the upgraded post on his completing three years of regular service as Accounts Officer as per Finance Ministry OM No.F-6(82)-IC/19 dated 22.9.92. The respondents have only raised a feeble contention in the reply that the Finance Ministry has not agreed to the retrospective promotion. No valid reasons have been given to deny promotion to the applicant on completion of three years of regular service as Accounts Officer specially when the promotion order dated 24.6.94 itself has incorporated a clause conferring the relevant benefit on the applicant.

8. For the foregoing reasons, we allow this OA and direct the respondents to consider giving the applicant the benefit of promotion in the upgraded post w.e.f. 1.11.92 with the benefits as prayed for by the applicant. No order as to costs.


(S.BAPU)

MEMBER (A)


(S.K. AGARWAL)

MEMBER (J)