

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Date of order: 08.10.2001

OA No.345/1995

Vasudev Karmachandani s/o Shri Narain Das Karmachandani,
Senior Telephone Supervisor c/o SDE, Tilak Nagar, Jaipur
r/o Sector 7 Cha 5, Jawahar Nagar, Jaipur

..Applicant

Versus

1. Union of India through Secretary to the Govt. of India, Department of Telecommunication, Ministry of Communications, New Delhi.
2. Chief General Manager, Telecommunication, Rajasthan Circle, Jaipur.
3. General Manager, Telecommunication (District), Jaipur.

.. Respondents

Mr. P.V.Calla, counsel for the applicant

Mr. Bhanwar Bagri, counsel for the respondents

CORAM:

Hon'ble Mr. Justice B.S.Raikote, Vice Chairman

Hon'ble Mr. Gopal Singh, Administrative Member

ORDER

Per Hon'ble Mr. Gopal Singh, Administrative Member

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant, Vasudev Karmachandani, has prayed for a direction to consider the case of the applicant for extending/^{to him} the higher pay scale of Rs. 2000-3200 under the BCR scheme w.e.f. the date the employees junior to him were given the said pay scale.

2. Undisputed facts of the case are that the

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applicant was initially appointed as Telephone Operator in the month of July, 1958 with the respondent Department. He was granted ad-hoc promotion in the scale of Rs. 1600-2660 and his ad-hoc promotion was regularised w.e.f. 12.2.1993 vide respondents' order dated 13.4.1993 (Ann.A4). Thereafter, the applicant became entitled to be considered for the next higher grade of Rs. 2000-3200 for which a DPC was convened and employees much junior to the applicant were promoted to the scale of Rs. 2000-3200 ignoring the claim of the applicant. However, the respondents did not provide him the scale of Rs. 2000-3200 in terms of circular dated 22.10.1993 wherein it was clearly mentioned that officials who had opted for fixation in the restructured cadre would have no claim for 10% posts in the pay scale of Rs. 2000-3200 in the basic grade. Since the applicant had opted for restructured cadre, he was not considered eligible for promotion to the higher grade of Rs. 2000-3200. While this OA was pending consideration before this Tribunal, the respondent department lifted the above mentioned stipulation vide their letter dated 16.6.1997 and it was decided to allow 10% BCR scale of Rs. 2000-3200 (Grade-IV) also to the staff working in the restructured cadre. Accordingly, the respondent department has promoted the applicant to the pay scale of Rs. 2000-3200 notionally w.e.f. the date his junior was promoted vide order dated 26.5.1998. The applicant has prayed for grant of higher pay scale of Rs. 2000-3200 at par with his junior. This has since been given to the applicant from the date his junior was given the pay scale of Rs. 2000-3200. However, the applicant now challenges the notional benefit given to him and contends that he should have been

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given actual benefit at par with his junior. It may be mentioned that the benefit of promotion to the scale of Rs. 2000-3200 was given w.e.f. 1.2.1995. This order stipulated that the actual effect of promotion would be available from the date of assumption of charge of the post in the higher scale. Since the applicant was given the higher scale notionally from back date and in the meantime he had retired on superannuation, he had no occasion for assuming the charge in the higher scale and, therefore, actual benefits of higher scale have been denied to the applicant. We have only to consider in this case, at this stage, is whether the applicant is entitled to the actual benefit of the higher scale w.e.f. the date his junior was given.

3. We consider it appropriate to reproduce below the relevant portion of the order dated 22.10.93 (Ann.R7):-

"2. The question of allowing BCR of the basic grade to Group 'C' and 'D' officials who have moved to the restructured cadres and opted OTBP of the basic grade has been under consideration of the Government for quite some time. The matter has been examined and I am directed to say that it has been decided to allow BCR of the basic grade to the Group 'C' and 'D' officials including PI/.../TO/TA who have moved to the restructured cadre and opted for OTBP of the basic grade.

3. The officials who wish to avail of this facility should do so in writing within a

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period of 3 months from the date of eligibility for BCR. The option once exercised shall be final.

4. The pay of such officials will be fixed under FR-22(C) (old). It is hereby clarified that such officials will have no claim for 10% posts in the pay scale of Rs. 2000-3200 (in the basic grade). The officials who opt for BCR of the basic grade will, however, continue to work in the restructured posts only and they will not get extra incentive for working in these posts."

4. It would be seen from above that persons who had opted for restructured cadre were not entitled for promotion to the 10% posts in the scale of Rs. 2000-3200 in the basic grade, and accordingly it was denied to the applicant. However, this stipulation was relaxed by the respondents vide their order dated 16.6.1997, and we consider it appropriate to extract below the relevant portion of the order dated 16.6.1997:-

"2. The question of allowing 10% BCR (Grade-IV) of the basic grade to such officials has been under consideration of the Government for quite some time. The basis for such consideration has been that the staff in the Restructured Cadre should not be at a disadvantage compared to their counter-part in the basic grade.

3. The matter has been examined and I am directed to say that it has now been decided to allow 10% BCR scale of Rs. 2000-3200 (Grade IV) also to the staff working in the Restructured Cadre. This benefit will be given to the staff

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in the Restructured Cadre from the date their juniors in the old cadre have been given this benefit as per seniority in the basic grade of the old cadre."

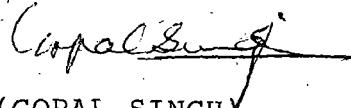
5. It is provided in the circular dated 16.6.1997 that the benefit will be given to the staff in the restructured cadre from the date their juniors in the old cadre had been given this benefit as per seniority in the basic grade of the old cadre. There is no dispute that the applicant is senior to Shri Nanag Ram Gupta, Shri Megh Raj and Shri N.L.Gupta, who were promoted to the scale of Rs. 2000-3200 vide respondents order dated 30.1.1995 and they took charge of the post in the higher scale w.e.f. 1.2.1995. In terms of circular dated 16.6.1997 the applicant was to be extended the benefit of the higher scale w.e.f. the date his juniors were promoted to that scale. The respondent department has, however, given the benefit notionally to the applicant. We do not find any authority on record to extend this benefit notionally. Moreover, this notional benefit has been of no consequence to the applicant as he has retired before the order extending this benefit to the applicant was issued. The circular dated 16.6.1997 does not deny the actual benefit of promotion to the higher scale with reference to the date of promotion of juniors.

6. In the circumstances, we are of the view that the applicant is entitled to actual benefit of promotion to the higher scale of Rs. 2000-3200 w.e.f. 1.2.1995 and further revision of his pension on the basis of his pay fixation in the scale of Rs. 2000-3200. Accordingly, we

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pass the order as under:-

The OA is allowed. The applicant would be entitled to actual benefit of promotion to the higher scale of Rs. 2000-3200 under the BCR scheme with all consequential benefits like arrears of pay fixation w.e.f. 1.2.1995 till his retirement and consequent revision of his pensionary benefits based on the new emoluments in the scale of Rs. 2000-3200. We allow three months' time to the respondents to comply with these orders. No costs.


(GOPAL SINGH)

Adm. Member


(B.S. RAIKOTE)

Vice Chairman