

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

O.A. No. 471/1995 199  
T.A. No.   
xxxxxx

DATE OF DECISION 2.2.2001

Manohar Singh Chauhan Petitioner

Mr. S.R.Chaurasia, proxy to Mr. D.P.Garg, Advocate for the Petitioner (s)

Versus

Union of India and ors. Respondent


Mr. Hemant Gupta, proxy to Mr. M.Rafiq Advocate for the Respondent (s)


CORAM :

The Hon'ble Mr. A.K.MISHRA, JUDICIAL MEMBER

The Hon'ble Mr. N.P.NAWANI, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ? X
2. To be referred to the Reporter or not ? yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? X
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✓

  
(N.P.NAWANI)  
Adm. Member

  
(A.K.MISHRA)  
Judl. Member

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 2.2.2001

OA No.471/1995

Chauhan

Manchar Singh/S/o Shri Nathu Singh Chauhan, Sr. Section Supervisor,  
CTO Ajmer r/o Govind Nagar, Ram Ganj, Ajmer.

.. Applicant

Versus

1. Union of India through the Secretary, Ministry of Telecommunications, Government of India, New Delhi.
2. The Chief General Manager, Telecommunication, Rajasthan Circle, Jaipur.
3. The Director Telecommunication (South), Udaipur.
4. The Senior Superintendent (Telegraph Traffic) Ajmer Division, Ajmer.
5. The Adviser (H.R.D.) Telecommunication Board, Sanchar Bhawan, New Delhi.
6. Shri Shiv Kishan, Chief Section Supervisor, CTO, Ajmer.

.. Respondents

Mr.S.R.Chauresia, Proxy counsel to

Mr. D.P.Garg, counsel for the applicant

Mr.Hement Gupta, proxy counsel to Mr. M.Rafiq, counsel for the respondents

CORAM:

Hon'ble Mr.A.K.Mishra, Judicial Member

Hon'ble Mr. N.P.Newani, Administrative Member

Order

Per Hon'ble Mr. N.P.Newani, Administrative Member

In this Original Application, the applicant Shri Manchar Singh Chauhan seeks following reliefs:-

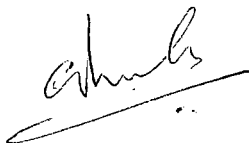
- (1) The Hon'ble Tribunal be pleased to quash letter dated 29.12.94 (Ann.A/1) of D.T.C.(S)-Udaipur and place the applicant at Sr. No.1 in Ann.A/15 Gradation List of Gr.III Scale Rs. 1600-2660 as on 31.8.94 issued on 6.9.94 by SS(TT)-

Ajmer.

- (2) The Hon'ble Tribunal may kindly be pleased to issue appropriate Writ directions or order compelling the Government Respondents to promote the applicant to Gr.IV Scale Rs. 2000-3200 with effect from 17.9.94 and also direct them to pay the applicant salary and allowances in Grade Rs. 2000-3200 accordingly with interest @ 24% p.a.
- (3) The Hon'ble Tribunal be pleased to set-aside Ann.A/2 D.P.C. dated 17.9.94 or alternatively declare that it will not in any manner affect the right of promotion of the applicant to the post of Chief Section Supervisor Gr. IV Scale Rs. 2000-3200."

2. We have heard the learned counsel for the parties and have perused all the material on record.

3. Briefly stated, the case of the applicant is that he had been promoted to the post of Section Supervisor scale Rs. 425-640 (Rs. 1400-2300) against 1/3rd quota vacancies of 1979 w.e.f. 12/13.11.81 as against such promotion of respondent No.6 (Shri Shiv Kishyan) under 2/3rd quota of 1982 w.e.f. 11.12.1982 and, therefore, he was correctly shown senior (at Sl.No.8) to respondent No.6 (at Sl.No.11) in the Gradation List at Ann.A6. It is further stated that vide DOT letter dated 30.11.1992 (Ann.A8), it has been clarified that officials who are already promoted to the pay scale of Rs. 1400-2300 in the 1/3rd quota of LSG will rank senior to all those who are placed in the scale of Rs. 1400-2300 under OTBP scheme. The applicant's grievance is that, in spite of such clear provisions about seniority and the Gradation List at Ann.A6, the applicant has been shown junior to respondent No.6 in the Gradation List of BCR Cadre TOA (TG), extract at Ann.A15, wherein the applicant has been shown at Sl.No.4 while respondent No.6 has been placed at

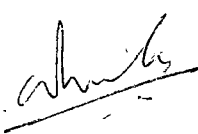


Sl.No.3. The applicant made representation against this but in spite of a similarly placed official <sup>being</sup> allowed to regain his seniority, his representation was rejected through Ann.A1. Thereafter, a DPC was illegally held on 17.9.94 and promotions to the scale of Rs. 2000-3200 were ordered (Ann.A2) including that of respondent No.6 under 10% BCR posts ignoring the claim of the applicant. The representation of the applicant was replied to only on 2.1.1995 (Ann.A1) and his further representations were of no avail. The applicant, therefore, contends that he should be entitled to promotion to the Grade-IV scale Rs. 2000-3200 w.e.f. 17.9.94, the date on which his junior respondent No.6, was given promotion to such grade vide order dated 17.9.94 (Ann.A2).

4. The respondents by filing their reply have denied the case of the applicant. It has been stated on their behalf that the applicant was allowed upgradation w.e.f. 1.1.92 and respondent No.6 was allowed upgradation w.e.f. 3.3.91 under the scheme of BCR and, therefore, respondent No.6 was rightly placed at Sl.No.3 and applicant at Sl.No.4 in the Gradation List. It is also mentioned in the reply that promotion of respondent No.6 granted by Director Telecom (S) Udaipur vide his order dated 17.9.94 (Ann.A2) has since been cancelled and he was reverted to his original post of Grade-III as only one post of 10% Grade-IV was justified and Shri K.L.Khandya was already working against that post. It has also been stated that in view of the order passed by the Principal Bench of this Tribunal dated 7.7.92 in OA No. 1455/91, Smt. Santosh Kapoor and Ors. v. Union of India and ors. (Ann.R4) and the judgment of Hon'ble the Supreme Court of India in Special Writ Petition Civil No. 4244 of 1993 Civil Application No.3201 of 1993 upholding the said order of the Principal Bench (Ann.R5), there is no ~~relevance~~ of seniority under BCR cadres as promotions under BCR scheme are to be given on the basis of seniority in the basic grade.



5. We have carefully considered the rival contentions and have also given our respectful attention to the order of the Principal Bench (Ann.R4) and the judgment of the Hon'ble Apex Court (Ann.R5). The law laid down in the above mentioned order/judgment is that promotions under OTBP/BCR are to be governed with reference to seniority in the basic cadres subject to fulfilment of other conditions of BCR. Of course, the Departmental Promotion Committee will certainly look into the suitability of the candidates for promotion against OTBP/BCR schemes. It has also been held in the order of the Principal Bench, which had been upheld by the Apex Court (supra) that "the scale of Rs. 2000-3200 is clearly a part of the BCR Scheme; 10% of the posts in scale Rs. 1600-2660 are placed in the scale of Rs. 2000-3200. It appears that BCR provided this since those coming under BCR would hardly have any opportunity to go to the higher scale of Rs. 2000-3200 by virtue of seniority". It has also been mentioned in the said order that the basic cadre is Telegraph Assistant/Telegraphist. It is observed from the Gradation List of SS and SS (O) in the grade of Rs. 1400-2300 (copy extracted at Ann.A6) that the applicant had entered the grade of TA on 5.11.1965 and was subsequently promoted to the grade of SS and SS(O) in the scale of Rs. 1400-2300 against 1/3rd quota of 1979 w.e.f. 13.11.1981. Respondent No.6, on the other hand, had entered the grade of TA on 3.3.65 and was promoted to the scale of Rs. 1400-2300 against 2/3 quota of 1982 w.e.f. 1.12.1982. Thus, while the respondent No.6 was senior to the applicant in the basic grade of TA, the applicant had become senior to respondent No.6 by virtue of his having been promoted to the grade of SS in the pay scale of Rs. 1400-2300 by virtue of his having got promoted to the post of SS in the pay scale of Rs. 1400-2300 under 1/3 quota of 1979 as against respondent No.6 having got the said pay scale only under 2/3rd quota of 1982. Such assignment of seniority in the grade of SS, pay scale Rs. 1400-2300 is unexceptionable in view of Government of India, Department of Telecommunications letter of

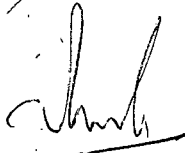


9. In the result, the OA is partly accepted and respondents are directed to:-

- i) Consider promotion of the applicant to the BCR Grade-III in the pay scale of Rs. 1600-2600 w.e.f. 3.3.1991 i.e. the date from which his junior, respondent No.6, was given such promotion with consequential benefits.
- ii) If the respondents find it necessary to publish a Gradation List for the post of TAO(TG) under BCR scheme, a modified draft may be circulated in place of the one at Ann.A15, but in that case the inter-se seniority between the applicant and Shri Shiv Kishan (respondent No.6) shall be maintained as it is in the Divisional Gradation List (copy annexed at Ann.6).
- iii) Any further vacancies getting available in Grade-IV, pay scale Rs. 2000-3200, under ten percent formula may be filled as per rules but taking into consideration the date of entry in the base grade of TA of the eligible candidates.

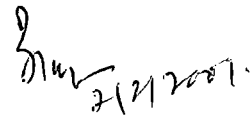
Direction at i) above may be implemented within three months of receipt of a copy of this order.

In the circumstances, parties are left to bear their own costs.



(N.P.NAWANI)

Adm. Member



(A.K.MISHRA)

Judl. Member