

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR
O.A.No.488/95 Date of order: 21/9/2001

Laxman Singh, S/o. Sh.Mangalia Singh, Senior S.D.O,
Phones, Bajaj Nagar, O/o GMTD Jaipur.

...Applicant.

Vs.

1. Union of India through Secretary Telecommunication,
Mini.of Telecom, Sanchar Bhawan, New Delhi.
2. Chief General Manager Telecom, Rajasthan Telecom
Circle, Jaipur.
3. General Manager Telecom District Jaipur, Jaipur.
4. Sh.V.R.Rao, Senior SDE Microwave Maintenance,
Mancherial, A.P.

...Respondents.

Mr.K.S.Sharma : Counsel for applicant

Mr.Bhanwar Bagri : for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member.

Hon'ble Mr.A.P.Nagrath, Administrative Member.

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

In this O.A filed under Sec.19 of the ATs Act, 1985,
the relief claimed by the applicant is as under:

- i) to direct respondent No.1 to 3 to step-up the pay of the applicant equal to respondent No.4 as on 1.5.89 alongwith arrears and interest.
- ii) to direct respondents Nos.1 to 3 to grant advance increments to the applicant w.e.f. 1.5.90 alongwith arrears and interest.

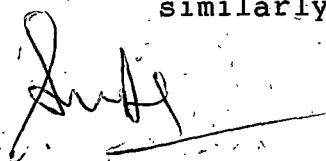
2. Heard the learned counsel for the parties and also perused the whole record.

3. On a perusal of the averments of the parties, it

becomes abundantly clear that the applicant is senior to respondent No.4. It is also clear from the averments that before implementation of recommendations of 4th Pay Commission, the pay of the applicant was Rs.810/- with date of increment in February each year whereas pay of respondent No.4 was also Rs.810 with date of increment in May each year. After implementation of recommendations of 4th Pay Commission, pay of the applicant was fixed at Rs.2375/- on 1.1.86 with date of increment in February each year whereas respondent No.4 exercised his option for new pay scale w.e.f. 1.5.87 hence his pay was fixed at Rs.2600 on 1.5.87 in revised pay scale with date of increment in May, each year and Shri Rao continued to draw the old pay scale Rs.810/- from 1.1.86 and Rs.840 from 1.5.86. Thus Shri Rao has drawn Rs.2600 w.e.f. 1.5.87 whereas the applicant has drawn Rs.2600/- w.e.f. 1.2.88. Thus Shri Rao, who is junior to the applicant has drawn more pay as on 1.5.87 than the applicant.

4. It is settled principle of law that a junior cannot draw more pay than the senior unless rules so permit. As the respondents failed to show any rule (FR & SR) to permit the junior, respondent No.4, to draw higher pay than his senior (applicant), therefore, the applicant is entitled to step-up his pay at par with his junior Shri V.R.Rao, respondent No.4 w.e.f. 1.5.87 alongwith arrears and interest thereon.

5. It is also stated by the applicant in the O.A. that Shri Gurubir Singh Bagga has been granted similar relief on his representation dated 17.10.94 which fact has not been controverted by the respondents in their reply in so many words. Therefore, in view of the settled legal position and similarly situated person has already been granted the

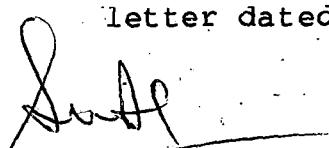


similar benefits, the applicant is also entitled to step-up his pay at par with his junior, respondent No.4, w.e.f. 1.5.87 alongwith arrears and interest thereon.

6. On a perusal of the averments of the parties, it is also abundantly clear and established that the applicant has acquired additional and higher qualification - Degree in Engineering and vide letter dated 11.7.90 (Annex.A2), the respondents' department issued instructions to give two advance increments to those who had acquired the Degree in Engineering w.e.f. 1.5.90. It is also clear that the said benefit was also given to respondent No.4 but the same has not been given to the applicant and this fact has been admitted by the respondents' department while disposing of the representation filed by the applicant. It was rather incumbent on the part of the respondents' department to grant this benefit to the applicant w.e.f. 1.5.90, as per orders issued vide letter dated 11.7.90 whereas the same benefit has already been given to respondent No.4. Therefore, the applicant is also entitled to the benefit of two advance increments w.e.f. 1.5.90 in pursuance of order dated 11.7.90 (Annex.A2) alongwith arrears and interest thereon.

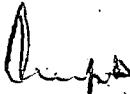
7. We, therefore, allow this O.A and direct respondents Nos.1 to 3 as follows:

- (i) to step-up the pay of the applicant equal to respondent No.4. The applicant shall also be entitled to arrears with interest @ 12% per annum;
- (ii) to grant two advance increments to the applicant w.e.f. 1.5.90, similar to respondent No.4, in pursuance of letter dated 11.7.90 (Annex.A2).

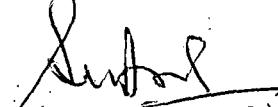


(iii) The applicant shall also be entitled to arrears and interest @ 12% per annum.

(iv) No order as to costs.


(A.P.Nagrath)

Member (A)


(S.K.Agarwal)

Member (J).