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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.149/96

Date of order: 28/9/99

B.Vara Prasad, S/o Ramarao R/o 105/106, Chhatarpati Marg, Mansarover, Jaipur, working as Senior Accounts Officer, O/O the Divisional Engineer, Circle Telecom Stores Depot, Jaipur.

...Applicant.

vs.

1. Union of India through the Secretary to the Govt. of India, Deptt. of Telecommunications, Sanchar Bhawan, New Delhi.
2. Director General, Deptt. of Telecommunications, Sanchar Bhavan, Sansad Marg, New Delhi.
3. Chief General Manager Telecommunications, Rajasthan Telecom Circle, Jaipur.
4. Chief General Manager Telecommunications, Gujarat Telecom Circle, Ahmedabad.
5. J.N.Mishra, Accounts Officer, O/o Chief General Manager Telecommunications, Gujarat Telecom Circle, Ahmedabad.

...Respondents.

Mr.K.L.Thawani - Counsel for applicant

Mr.V.S.Gurjar - Counsel for respondents.

CORAM:

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

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

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

In this Original Application, the applicant makes a prayer to quash the order at Annx.A1 and to direct the respondents to step-up the pay of the applicant at par with his junior Shri J.N.Mishra, w.e.f. 16.6.1989.

2. In brief the facts of the case as stated by the applicant are that he is working as Accounts Officer in the Office of the General Manager, Rajasthan Telecom Circle, Jaipur. It is stated by the applicant that Shri J.N.Mishra, who is junior to the applicant was given promotion as Accounts Officer on regular basis and the pay of Shri J.N.Mishra was fixed much higher than the applicant w.e.f. 16.6.89. When the applicant has given to know about this fact in October 1995, he made a representation to the Chief General Manager, Rajasthan Telecom Circle, Jaipur, on 7.12.95 but the same was rejected vide letter dated 31.1.96. It is stated that by virtue of fortuitous ad hoc promotion Shri J.N.Mishra, who is junior to the applicant was given benefit of higher fixation of pay, therefore, the applicant by this O.A, made a prayer of stepping up of his pay at par with Shri J.N.Mishra.

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3. Counter was filed. In the counter it is stated by the respondents that no case of stepping-up is made out in favour of the applicant and the action of the respondents in fixing the pay of Shri J.N.Mishra, is perfectly legal and not illegal and arbitrary. It has also been stated that this O.A is hopelessly barred by limitation and the case of the applicant is not covered under the provisions of Fundamental Rule 22, therefore, this O.A is devoid of any merit and is liable to be dismissed.

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

5. The provisions as given in F.R. 22 are as follows:

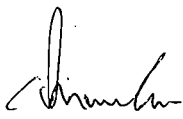
"(a) both the junior and the senior Govt. servants should belong to the same cadre and the posts in which they have been promoted should be identical in the same scale;

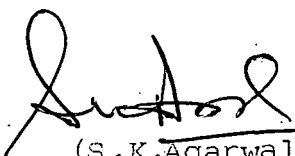
(b) the pre-revised and revised scales of pay of the lower and higher posts in which they are entitled to draw pay, should be identical; and

(c) the anomaly should be directly as a result of the application of the provisions of Fundamental Rule 22-C or any other rule or order regulating pay fixation on such promotion in the revised scale. If even in the lower post, the junior officer was drawing more pay in the pre-revised scale than the senior by virtue of any advance increments granted to him, these provisions need not be invoked to step up the pay of the senior officer."

6. The case of the applicant is not covered under the provisions given in F.R 22. Not only this but this O.A is hopelessly barred by limitation, as the applicant sought stepping up of his pay w.e.f. 16.6.89 whereas this O.A was filed on 4.3.96 and the delay has not been explained properly.

7. We, therefore, dismiss this O.A with no order as to costs.


(N.P. Nawani)
Member (A).


(S.K. Agarwal)
Member (J).