

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of decision: 10.1.2001

OA 376/96

Kehar Singh, SDOT, Jaipur O/o GMTD, Jaipur.

... Applicant

Versus

1. Union of India through Secretary, Telecommunication, Sanchar Bhawan, New Delhi.
2. Chief G.M.T, Rajasthan Telecom Circle, Sardar patel marg, Jaipur.
3. General Manager Telecom District, jaipur.

... Respondents

CORAM:

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

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

For the Applicant ... Mr.K.S. Sharma

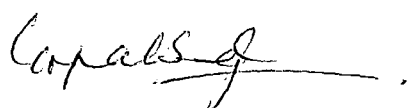
For the Respondents ... Mr.K.N. Shrimal

O R D E R

PER HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

Applicant Kehar Singh in this application u/s 19 of the Administrative Tribunals act, 1985 has prayed for declaring the respondents' letter dated 6.3.96 (Ann.A/1) as illegal, unconstitutional and arbitrary and for quashing the same, and for a direction to the respondents to extend the benefit of Lateral Advancement Scheme (effective from 1.1.90) to the applicant and due arrears be allowed to him.

2. Applicant's case is that he was appointed as Junior Engineer (Phones), now designated as Junior Telecom Officer on 25.10.72. He passed his TES Group-B examination in November, 1977. The respondents introduced a scheme to improve service prospects in the cadre of Junior Telecom Officer for lateral advancement to higher scale of Rs.2000-3500 for JTOs who have completed 12 years of service, the scheme being effective from 1.1.90 and onwards. Contention of the applicant is that he was eligible for grant of the benefit under this scheme. However, the same was not extended to him w.e.f. 1.1.90 but was given only from 1.4.94. In the meantime, the applicant was promoted as TES Group-B on 4.6.90. Contention of the applicant is that



had he been given upgraded scale in terms of lateral advancement scheme w.e.f. 1.1.90, the pay of the applicant on promotion on 4.6.90 would have been fixed by giving him two additional increments in the scale of Rs.2000-3500. The respondents had earlier extended him the benefit of fixation of pay under FR 22(1)(a)(i) on his lateral placement w.e.f. 1.1.90 and subsequently on his promotion w.e.f. 4.6.90. However, this benefits was withdrawn by the respondents vide letter dated 6.3.96 (Ann.A/1). Feeling aggrieved, the applicant has filed this application.

3. In the counter it has been stated by the respondents that in terms of Government of India order dated 5.7.94 the applicant is not entitled to fixation benefit w.e.f. 1.1.90 and similarly in terms of Government of India order dated 2.9.94 the benefit of FR 22(1)(a)(i) was required to be given from 1.9.94 onwards. It has, therefore, been averred by the respondents that the applicant is not entitled to the benefits he has claimed and, therefore, the application is liable to be dismissed.

4. We have heard the learned counsel for the parties and perused the records of the case carefully.

5. For better appreciation of the case it would be appropriate to go through the Lateral Advancement Scheme, as introduced by the respondent department vide their letter dated 26.6.90. In this connection, relevant portion of the order dated 26.6.90 is reproduced below :--

"Subject :- Lateral advancement of JTOs after completion of 12 years service - Scheme reg.

The scheme to improve the service prospects in the cadre of Junior Telecom. Officers has been engaging the attention of the Telecom. Commission. It has now been decided to introduce a scheme for lateral advancement of JTOs to the higher scale of Rs.2000-60-2300-EB-75-3200-100-3500, through matching savings.

*C. P. S. J.*

2. The following instructions are hereby issued for implementation of the scheme :-

(i) The JTOs who have completed 12 years of service since the date of appointment in the cadre of Engineering Supervisor/J.E./J.T.O. as on 1.1.90 and onwards will be placed in the higher scale of Rs.2000-60-2300-EB-75-3200-100-3500.

ii) The scheme will take effect from 1.1.90. In case of officials who have completed 12 years of service in the cadre of E.S./J.E./JTO before 1.1.90, the placement in the higher scale of pay will also take effect from 1.1.90.

iii) In case of E.S./J.E./JTOs who complete 12 years of service in the cadre after 1.1.90, the lateral advancement will be given effect to from the day following the date of completion of 12 years of service.

iv) Placement in the higher scale, as stipulated above, will be subject to fitness and vigilance clearance.

v) On lateral placement in the scale of Rs.2000-3500, under this scheme, pay will be fixed under the provisions of FR 22.I(a)(I) subject to the condition that, on promotion to the TES Group 'B', the official will continue to draw pay in the same scale without refixation.

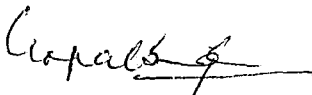
vi) JTOs on placement in the higher scale under this scheme, will continue to perform the duties of JTOs

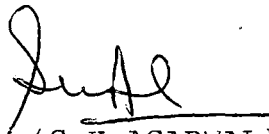
vii) The placement in higher scale of Rs.2000-3200 is on non-functional basis and does not affect to promotion. Reservation for SC/ST will not apply in this case."

*Copals*

It is clearly provided in this letter that on lateral placement in the scale of Rs.2000-3500 under the scheme, pay fixation benefit under FR 22(1)(a)(i) would be given. Government orders dated 5.7.94 and 2.9.94, relied upon by the respondents, do not deal with the cases of the officers to whom the benefit of lateral advancement scheme was extended. Instead, these letters deal with the cases of normal promotion to the post of JTO. As such, we are of the view that these circulars do not apply to the case in hand. It is also seen from records that as per the revised seniority of the applicant, he was entitled to the benefit of lateral advancement w.e.f. 1.1.90 and subsequent promotion w.e.f. 4.6.90. Accordingly, we are of the view that there is merit in this application and the same deserves to be allowed.

6. The OA is accordingly allowed with a direction to the respondents to extend the benefit of lateral advancement scheme to the applicant w.e.f. 1.1.90 with actual financial benefit of pay fixation and further promotion w.e.f. 4.6.93 as per rules. No costs.

  
(GOPAL SINGH)  
MEMBER (A)

  
(S.K.AGARWAL)  
MEMBER (J)