

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Decision : 24.5.2002

O.A. No. 89/1997.

1. Kamta Prasad s/o Shri Ram Swaroop, aged around 57 years, resident of House No. 7-Ta-34, Jawahar Nagar, Jaipur. presently posted as Sr. Supervisor (Valuation) office of S.D.E. (Trunk), GMTD, Jaipur.
2. Deep Chand s/o Late Shri Bhairu Ramji, aged around 55 years, resident of 58, Hathibabu Ka Hattha, Station Road, Jaipur, presently posted as Sr. Supervisor (Observation) Office of S.D.E. (Vigilence), GMTD, Jaipur.

... APPLICANTS.

versus

1. Union of India through Secretary, Ministry of Telecommunications, Sanchar Bhavan, New Delhi.
2. Chief General Manager Telecommunications, Rajasthan Circle, Jaipur.
3. General Manager Telecom District, Jaipur.

... RESPONDENTS.

Shri R. N. Mathur, counsel for the applicants.
Shri O. P. Sheoran, Proxy counsel for
Shri Bhanwar Bagri, counsel for the respondents.

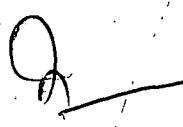
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Hon'ble Mr. M. P. Singh, Administrative Member.
Hon'ble Mr. J. K. Kaushik, Judicial Member.

: O R D E R :
(per Hon'ble Mr. J. K. Kaushik)

Shri Kanta Prasad & Anr. have filed this OA under Section 19 of the Administrative Tribunals Act, 1985, and have prayed for the following reliefs :-

"1. That the respondents may be directed to



extend benefit of stepping up of pay and consequential promotions;

2. That the respondents may also be directed to extend all benefits which were given to Shri P. N. Kapoor;

3. That the respondents may be directed to give all consequential benefits to the applicants;

4. Any other appropriate order or direction which the Hon'ble Court thinks just and proper in the facts and circumstances of the case even the same has been not specifically prayed for but which is necessary to secure ends of justice may kindly be issued."

2. The brief facts of the case are that the applicants were initially appointed to the post of Telephone Operator in the office of DET, Jaipur on 01.09.1961 and 09.05.1962 respectively. At present they are holding the post of Senior Supervisor in the Office of SDE(Trunk) and SDE(Vigilance) in GMTD Jaipur. The case is that one scheme of 20% promotion was introduced by the department which was given effect to from 01.06.1974. Under the said scheme, the benefits were to be extended strictly as per the seniority reckoned from the date of initial appointment and the case of the applicants were ignored and numbers of juniors were neglected. Both the applicants were senior to Shri Mishri Lal, Shri N. R. Dhawalkha and Sh. Ramchandra Chetanram, on the post of Telephone Operator. It has been averred that the applicants were entitled for the benefits of 20 % promotion w.e.f. 01.06.1974. Since the same were given to their juniors they submitted representations from time to time but received no consideration, and the pay ~~anomaly~~ anomaly is allowed



to continue. It has also been mentioned that similarly situated other senior persons filed a OA No. 509/98 before this Tribunal and judgement dated 28.04.1994 was passed and the respondents were directed to grant notional fixation to the senior persons. On the basis of the said judgement one Shri K. K. Johry has been given notional fixation w.e.f. 01.06.1974 instead of 11.07.1994. The seniority was prepared for the persons who are working in the Rajasthan Circle as well as Jaipur Telecom District. There was a provision of exercising option for remaining in a particular division but no such option was called from the applicants.

3. One Shri P.N. Kapoor has also filed an OA on identical facts, which was registered as O.A. No. 509/98 and the same was decided on 29.08.1994, wherein benefits were extended from the dates 1974 to 1976 in that OA. It has been said that the repeated assurances were given to the applicants for grant of similar benefits but no action has been taken, despite the specific representations made in the matter. The Judgement of P.N. Kapoor was also submitted to the authorities but no result was the outcome. This application has been filed on the ground that the respondents have committed mistake inasmuch as they did not call the applicants to exercise option, the benefit of the judgement of

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P.N. Kapoor has not been extended. They have been denied the due promotions for the reason that they were treated as member of the Telecom District, Jaipur. Hence this application.

4. The respondents did not choose to file the reply to the OA. Further on 17.05.2002, when the case was listed for hearing, learned counsel for the respondents made a prayer that the reply was ready and they wanted to seek time for hearing but the request was turned down by this Tribunal.

5. We have heard the learned counsel for the parties and have perused the record of the case.

6. The mere prayer in this OA is to extend the benefit of stepping up of pay and consequential promotion. As regarding the stepping up of pay, we have given our anxious consideration to the facts narrated by the applicants in the OA. Firstly, we have not been furnished with the requisite details like the pay of the applicant vis a vis the junior, previous cadre etc. We did not get privilege of perusing the judgement in P. N. Kapoor since it was made available to us. However, in the present case, the difference of the pay has come because the so called juniors were extended the benefit of 20% promotion w.e.f. 01.06.1974 but the next promotion was given to the applicants only from 01.02.1978 and 31.03.1979 respectively. Thus the difference in pay have arisen due to the grant of delayed promotion of



the applicants and anomaly has arisen out of the early promotion of the private respondents. The anomaly is not directly as a result of the application of PR-22-C. Thus, no stepping up can be granted in view of the OM dated F-2(78)-E.III(A)/66 dated 04.02.1996. Further, we are also supported by the verdict of the Hon'ble Supreme Court in U.O.I. and Anrs. vs. R. Swaminathan 1997 SCC (L&S) 1852, wherein it has been held that even due to local officiation, the anomaly, if arising, out of grant of increments or for the reason of working of the junior on ad hoc basis, it does not come within the purview of the anomaly within the meaning of the aforesaid OM dated 04.02.1996. Thus no stepping up can be granted in the present case. The prayer of stepping up of pay in the OA is misconceived.

7. Nextly, the applicant has also claimed the promotion even though the words consequential promotion has been mentioned and the complete proceedings goes to show that he seems to have been denied his promotions in the year 1974 when his next junior is said to have promoted w.e.f. 01.06.1974. By the time OA was filed, the applicant had completed 23 years and as per law of limitation laid down under Section 21 of the Administrative Tribunals Act, 1985, one is required to agitate within a period of one year from the date of cause of action has arisen to him.



8. Thus the OA is not within limitation and is hit by delay and laches. It deserves to be dismissed on this count alone. However in this particular case, the cause of action has arisen to the applicants as early as 1974 when this very Tribunal was not in existence and the Tribunal also was given powers to adjudicate upon the matters in which the cause of action has arisen three years prior to the coming into the existence of this Tribunal (i.e. 01.11.1985). In this view of the matter, the Tribunal can adjudicate the matter only if the cause of action arose up to 01.11.1982 and prior to this date it has no jurisdiction. Thus, the claim of the applicants regarding grant of promotion from a retrospective date does not fall within the jurisdiction of this Tribunal and the OA cannot be entertained by this Tribunal on the ground of jurisdiction also as regards as the prayer for grant of promotion w.e.f 01.06.1974 is concerned.

9. In view of the aforesaid discussions, and in its all complexities the Original Application as regards the grant of promotion is neither within the limitation nor within the jurisdiction of this Tribunal and the claim of stepping up of pay is misconceived and meritless. The OA is dismissed accordingly. No costs.


(J. K. KAUSHIK)
MEMBER (J)


(M. P. SINGH)
MEMBER (A)