IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Date of order: 3.12.2001

OA No.335/1999

M.S.Rawat s/o Shri Mangal Singh r/o Plot No.17, Ganesh Nagar, Behind Kumawat Basti, Opposite ESI Dispensary No.4, Ajmer Road, Jaipur

OA No.336/1999

Ram Kishore Meena s/o Shri Gulab Dass Meena r/o Village Ganwali, Post Lalwas, Tehsil Jamua Ramgarh, Distt. Jaipur

OA No.337/1999

Gopal Sharan Mathur s/o Shri Dayashanker Mathur r/o 3/63, Telecom Colony, Malviya Nagar, Jaipur

OA No.338/1999

Anand Swaroop Srivastava s/o Shri Chandrika Prasad r/o 94/92, Agarwal Farm, Mansarover, Jaipur

OA No.339/1999

Chandra Kumar Purswami s/o Shri Daulat Ram r/o E-134, Opposite 14/174, Malviya Nagar, Jaipur.

..Applicants

Versus

1. Union of India through the Principal Secretary, Department of Telecommunication, New Delhi.
2. The Principal General Manager, Telecom. District, Bharat Sanchar Nigam Ltd., Office of P.G.M.T.D., Jaipur

.. Respondents

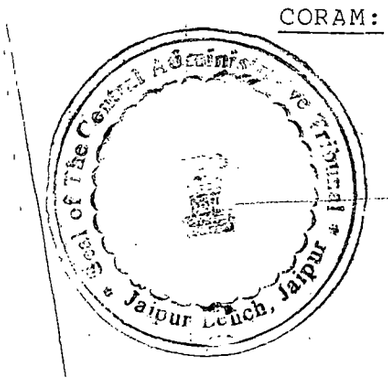
Mr.Mahesh Sharma, counsel for the applicants

Mr. Sanjay Pareek, counsel for the respondents

CORAM:

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

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



ORDER

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

These five OAs are being disposed of by this common order as the applicants are similarly placed and are aggrieved by their non-promotion to the post of Chief Telephone Supervisor in the pay scale of Rs. 6500-10500. They have challenged three orders of promotion, all dated 6.1.1998 and filed at Anns. A1, A2 and A3 in all these 5 case files. Their prayer is that the gradation list Ann.A4 be suitably amended to the extent the seniority of the applicant is being adversely effected in relation to the persons promoted vide impugned orders and that the applicants' cases be considered for promotion to the post of Chief Telephone Supervisor.

2. The applicant in OA No.335/99 was transferred from Ajmer Division to Jaipur Division on his own request on 20.9.1971 while working as Telephone Operator. He was granted One Time Bound Promotion after completion of 16 years of service on 29.4.1984 and promoted as Supervisor (Grade-II) and further promoted under Biennial Cadre Review (BCR) scheme after completion of 26 years' of service on 1.7.1996 as Senior Supervisor (Grade-III).

3. The applicant in OA No.336/99 was transferred from Bikaner Division to Jaipur Division on his own request on 19.8.1978 while working as Telephone Operator. He was granted One Time Bound Promotion after completion of 16 years of service on 30.11.1983 and promoted as Supervisor (Grade-II) and further promoted under Biennial Cadre Review (BCR) scheme after completion of 26 years of

service on 1.1.1992 as Senior Supervisor (Grade-III).

4. The applicant in OA No.337/99 was transferred from Ajmer Division to Jaipur Division on his own request on 18.4.1980 while working as Telephone Operator. He was granted One Time Bound Promotion after completion of 16 years of service on 23.12.1993 and promoted as Supervisor (Grade-II) and further promoted under Biennial Cadre Review (BCR) scheme after completion of 26 years of service on 1.1.1993 as Senior Supervisor (Grade-III).

5. The applicant in OA No.338/99 was transferred from Kota Division to Jaipur Division on his own request on 6.3.1978 while working as Telephone Operator. He was granted One Time Bound Promotion after completion of 16 years of service on 30.11.1983 and promoted as Supervisor (Grade-II) and further promoted under Biennial Cadre Review (BCR) scheme after completion of 26 years of service on 12.2.1993 as Senior Supervisor (Grade-III).

6. The applicant in OA No.339/99 was transferred from Ajmer Division to Jaipur Division on his own request on 28.3.1971 while working as Telephone Operator. He was granted One Time Bound Promotion after completion of 16 years of service on 8.12.1984 and promoted as Supervisor (Grade-II) and further promoted under Biennial Cadre Review (BCR) scheme after completion of 26 years of service on 1.1.1995 as Senior Supervisor (Grade-III).

7. Vide the impugned orders the respondents have promoted a number of persons to the posts of Chief Telephone Supervisors scale Rs. 6500-10500. These

applicants are aggrieved with the said orders on the ground that many of the persons in these lists of promotion are junior to the applicants.

8. The learned counsel for the applicants stated that case of the applicants is governed by Rule 38 (3) of P&T Manual, Vol.IV which provides as under:-

> "(3) If the old and the new unit form parts of a wider unit for the purpose of promotion to a higher cadre, the transferee (whether by mutual exchange or otherwise) will retain his original seniority in the gradation list of wider unit."

9. The learned counsel for the respondents opposed this contention on the ground that the case of the applicants is not covered by this clause but by Rule 38 (2) which governs the seniority of the employees who seek transfer on their own request. The learned counsel contended that having made a request for transfer and having accepted the conditions attached, the applicants were rightly placed at the bottom of the gradation list at the time they reported in Jaipur Division. Thus, the learned counsel for the respondents contended that the gradation list is very much under the framework of rules and no cause of grievance arises in favour of the applicants.

In respect of promotion to Grade-IV, to which the post of Chief Telephone Supervisor belongs, it was clarified by the learned counsel for the respondents that promotion to this grade is as per the seniority within the

Division whereas Rule 38(3) governs the promotions to the grades for which the entire Rajasthan Telecom Circle forms one unit. In the case of promotions to Grade-IV, every Division forms a distinct unit. In that view, the learned counsel contended that claim of the applicants has no basis.

11. We have perused the averments in the OAs and the reply of the respondents as also the contentions raised by the learned counsel on either side. The whole controversy revolves around the fact whether the case of the applicants is governed by Rule 38(3) or Rule 38(2). A careful reading of Rule 38(3) makes it clear that for the purpose of promotion to higher cadre where the entire circle is treated as one unit, the transferees will retain their original seniority in the gradation list of wider units where they come on transfer by mutual exchange or otherwise. But, the case before us is of promotion to Grade-IV. We have seen the impugned orders carefully and also the express stand of the Department. It is clear that the promotion to Grade-IV are only Division-wise. Promotion order has been issued by the office of General Manager, Telecom District, Jaipur. Obviously, this office can issue promotion orders only for its own district and not for other districts of Rajasthan Circle. Though the learned counsel for the applicants tried to maintain that the promotions is for the Rajasthan Circle, he could not produce any evidence in support of his contention. The learned counsel also stated that if Rule 38 (3) is read with Rule 38(2), this would result into an anomolous situation, inasmuch as, those who came by transfer on

request and were placed at the bottom of the gradation list at the time of their joining in Jaipur Division would rank senior to their seniors of this gradation list when it comes to reckoning their cases for promotion to grades higher than that of Chief Telephone Supervisor for which promotion, the entire Rajasthan Circle is reckoned as one unit. In other words, those who are being considered as junior for promotion to Grade-IV will have to be considered senior for higher promotions because of provisions of Rule 38(3). We do find there is a merit in this argument of the learned counsel, but it is not for us to consider this anomaly in the present case. It is for the Department to examine the implications of the provisions under Rule 38(2) and 38(3). What we are considering is only the cases of promotion to Grade-IV which undoubtedly is a promotion within the Division and for which the entire Jaipur Division is one unit. Insofar as Jaipur Division is concerned, the applicants have been correctly placed in the gradation list as they had come from other Divisions to Jaipur Division at their own request. The persons promoted vide impugned orders are decidedly senior to the applicants as per the divisional seniority. Thus, we do not find any cause of grievance in favour of the applicants.

8. In the light of the discussions aforesaid, we dismiss all these OAs as having no merits. No order as to

(A.P.NAGRATH)
Adm. Member

(S.K.AGARWAL)
Judl.Member

TRUE COPY ATTESTED
5/12/2007
Section Officer (Judicial)
Central Administrative Tribunal
Jaipur Bench, JAIPUR