

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Decision : 25/4/2003

O.A. No. 64/2000. with MA No. 53/2000.

1. Ram Dayal s/o Shri Chhitar Mal Ji, r/o 2574, Pancholi Bhawan, Govind Rajion Ka Rasta, Chandipole Bazar, Jaipur. At present working as Chief Section Supervisor Office of Principal General Manager, Telecom District, Jaipur.
2. S. L. Nawaria s/o Shri Ram Nath Ji Nawaria r/o A-76, Mandi Khatikan, Near Pajrant Nursury, Jaipur. At present working as Chief Section Supervisor office of Principal General Manager, Telecom District, Jaipur.
3. R. K. Agarwal s/o Shri B. L. Agarwal r/o 14/46,, Shipra Path, Mansarovar, Jaipur. At present working as Senior Section Supervisor Office of Principal General Manager, Telecom District, Jaipur.
4. Gokul Chand Gupta s/o Shri Makhan Lal Gupta r/o Plot No. 52, Gupta Garden, Govind Nagar, West-II, Amer Road, Jaipur. At present working as Senior Section Supervisor Office of Principa General Manager, Telecom District, Jaipur.
5. Hanuman Prasad Sharma s/o late Shri R. C. Sharma R/o Reengus Distt. Sikar, At present working as Junior Accounts Officer, Office of T.D.M., Rewari (Haryana).
6. Madan Gopal Fareek s/o Shri Narain Lal Fareek r/o A-28, Subhash Nagar Shopping Centre, Jaipur. At present working as Senior Section Supervisor office of Principal General Manager, Telecom District, Jaipur.
7. Girdhari Lal Chajera s/o Shri Mangi Lal Ji r/o 52, Ram Nagar, Uma Path, Sodala, Jaipur. At present working as Senior Section Supervisor Office of Principal General Manager, Telecom District, Jaipur.
8. Durga Prasad Jain s/o Late Shri Suwa Lal Jain r/o Plot No. 58, Govind Nagar East, Amer Road, Jaipur. At present working as Senior Section Supervisor Office of Principal General Manager, Telecom District, Jaipur.
9. Narain Das Bharamadasani s/o Shri Tek Chand r/o 266, Green House, Sindhi Colony, Raja Park, Jaipur. At present working as Senior Section Supervisor office of Principal General Manager, Telecom District, Jaipur.
10. Shri R. D. Sharma s/o Late Shri Ganeshi Lal Ji 1-D 51 Lalita Shastri Nagar, Jaipur. At present working as Senior Section Supervisor office of Principal General Manager, Telecom District, Jaipur.



11. Shri Sriram Fathik s/o Shri Shyam Lal r/o 14, Mahawar Colony, Kartarpura, Jaipur. At present working as Senior Section Supervisor office of Principal General Manager, Telecom District, Jaipur.

12. Shri Murari Lal Bhatt s/o Late Shri E.L. Bhatt r/o 454, Temple Murga Bhatt, Rasta Govind Rajion Ka, Chandpole Bazar, Jaipur. At present working as Senior Section Supervisor office of Principal General Manager, Telecom District, Jaipur.

... APPLICANTS.

v e r s u s

1. The Secretary to the Government of India, Ministry of Communication, Department of Tele-Communication, New Delhi.

2. The Director-General, Telecommunication, Government of India, New Delhi.

3. Chief General Manager, Telecommunication, Rajasthan Circle, Jaipur 302008.

4. Principal General Manager, Telecom District, Jaipur 302010.

... RESPONDENTS.

Mr. Surendra Singh counsel for the applicants.

Ms. Shalini Sheoran Proxy counsel for

Mr. Bhanwar Bagri counsel for the respondents.

CORAM

Hon'ble Mr. Justice G. L. Gupta, Vice Chairman.

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

: O R D E R :

(per Hon'ble Mr. A. P. Nagrath)

The applicants, who are 12 in number, have filed this OA with a prayer that the respondents be directed to extend the benefit of pay scale of Rs.6500-10500 of the post of Chief Section Supervisor under ECR Scheme Gr. IV w.e.f. 17.01.1995 and 29.08.1995 on which dates their Juniors were placed in that scale.




2. In the reply, the respondents have come out with a plea that this OA has become infructuous for the reason that all the juniors who had been earlier placed in the pay scale of Rs.6500-10500 have been reverted w.e.f. the dates of their promotion and without pay protection. Since no juniors were working in Gr.IV ECR, as per the respondents the cause of action does not survive. This reply of the respondents was contested by the applicants in their rejoinder and an affidavit was filed attaching an order dated 03.10.2002 (Annexure A-8) by which the juniors, who were reverted from ECR Gr.IV to Gr.III, once again were allowed to continue on Gr.IV from the date of their initial promotion.

3. Obviously in the face of these developments, we agree with the learned counsel for the applicants, Shri Surinder Singh, that it is not correct to say that the cause of action does not survive. The fact remains that those juniors who were promoted earlier have been permitted to continue on Gr.IV of ECR, while applicants are still in Gr.III only.


4. The respondents have filed MA No. 44/2003 and the learned counsel on their behalf Ms. Shalini Sheoran drew our attention to letter dated 14.11.2003 to contend that the matter was still being examined further and reviewed. We have taken this document on record and the MA stands disposed of.

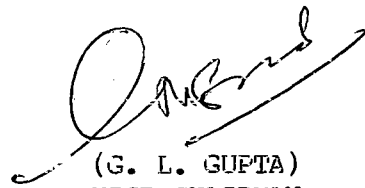
5. It is not in dispute that the applicants are senior and their juniors have been promoted to Gr.IV w.e.f. 17.01.1995 and 29.08.1995. The promotion order of the juniors were issued on 06.03.1998 (Annexure A-4). A perusal of facts reveals that the applicants had earlier been placed junior in the Provisional Gradation List on 30.06.1997. Later,



the said Gradation List was revised vide another letter dated 8.2.1999 whereby the applicants were placed senior to 3. Sh. G. D. Chhattri, R.J. Meena & Shri Madho Lal Meena. The position as it stands today is that these 3 junior persons are working in ECR Gr.IV. Shri R.J. Meena & Shri Madho Lal Meena have been given this benefit w.e.f. 17.01.1995 and Shri G.D. Chhattri has been given w.e.f. 29.08.1995. No explanation has been forthcoming from the respondents as to under what compelling circumstances they have permitted the juniors to enjoy the benefits of promotion to ECR Gr.IV while denying the same to the seniors. We find a strong case in favour of the applicants and this OA is thus liable to be accepted. It is ironical that the concerned authorities of the department, while permitting the juniors to enjoy the fruits of promotion for the last so many years, have been rather indifferent to the cause of the seniors.

6. This OA is allowed. The respondents are directed to extend the benefit of promotion to ECR Gr.IV to all the applicants w.e.f. the dates, their next juniors have been so promoted. The applicants are also entitled to all the consequential benefits including arrears of salary arising out of their promotion from the retrospective dates. Respondents shall comply with this order within a period of 3 months from the date of receipt of a certified copy of this order. No costs.


(A. P. NAGRATH)
MEMBER (A)


(G. L. GUPTA)
VICE CHAIRMAN