

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH : JAIPUR

Date of Order : 19/11/2001

O.A. No. 401/2000.

Mool Chand Sharma s/o Hanuman Sahai Sharma by caste Sharma, Aged about 36 years, Resident of 35, Pratap Nagar, Old Ramgarh Med, Jaipur, presently working as a Senior T.O.A. (P) in the office of the P.G.M.T.D. Jaipur.

... APPLICANT.

v e r s u s

1. Union of India, through the Secretary to the Govt. of India, Department of Telecom, Sanchar Bhawan, Sansad Marg, New Delhi.
2. Chief General Manager, Telecom Rajasthan Circle, Jaipur-8.
3. Principal General Manager, Jaipur District, Jaipur.

... RESPONDENTS.

Mr. P. N. Jati, counsel for the applicant.

Mr. P.C. Sharma, proxy counsel for

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)

The Controversy involved in this case is exactly similar to the one already decided by us in OA No. 537/2000 (Gurucharan Pareek Vs. U.O.I. & Ors.) on 09.08.2001. In fact it arises out of the same series of orders and the name of the applicant Moolchand Sharma appears in the related orders alongwith that of Shri Gurucharan Pareek, applicant in OA No. 537/2000.



2. The applicant was given officiating promotion in the grade of Senior TOA (P) in the pay scale of Rs. 1320-2040 w.e.f. 20.02.1996 vide order dated 05.11.1996 (Annexure A-3). Subsequently by order dated 08.09.1999 (Annexure A-4), the revised date of promotion was shown as 10.02.1998 which was to continue up to 08.05.2005. This order shows the previous date of promotion as '20.02.1996 to continue'. By order dated 19.01.2000 (Annexure A-1), the applicant was regularised on the said post now in the pay scale of Rs. 4000-6000. The date of regularisation is indicated as 21.07.1999. After indicating the revised date of promotion as 10.02.1998, the respondents also reduced the pay of the applicant in the pay scale of Rs. 4000-6000 downwards. In other words, increments earned by him from 20.02.1996 to 10.02.1998 were ignored. The applicant has assailed the orders of regularisation w.e.f. 21.07.1999 on the ground that the regularisation should take effect from 20.02.1996, the date on which he was initially promoted to officiate. He has further assailed the action of the respondents of reducing his pay from Rs. 4400/- to Rs. 4100/- w.e.f. 1.12.1999.

3. We have discussed in detail the various orders relating to the applicant in OA No. 537/2000, which was exactly similar to the facts in this case. As

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held in that case, regularisation of the applicant w.e.f. 21.07.1999 cannot be faulted and that order needs no interference, as the regularisation has been done after following the due process. In so far as the pay of the applicant is concerned, the respondents have to consider him as having continued in the post of Senior TOA (P) w.e.f. 20.02.1996 and having earned increments in the pay scale of Rs. 4000-6000 from that date, even though, the applicant officiated only on ad hoc basis. Action of the respondents of considering the date of ad hoc promotion only from 10.02.1998 is totally arbitrary because the applicant, in fact, continued to officiate without ^m interruption w.e.f. 20.02.1996. An order issued on 08.09.99 (Annexure A-4) cannot have the effect of wiping off this reality. Consequently their action of reducing the pay of the applicant is not sustainable as held by us in OA No. 537/2000. The applicant in this OA is entitled to draw his pay as Senior TOA (P), as if he has continued on this post w.e.f. 20.02.1996. If any recovery has been made from him, the same shall be refunded to the applicant forthwith.

4. We, therefore, partly allow this OA and direct the respondents to fix the pay of the applicant in the grade of Rs. 4000-6000, considering him as having continued on the post w.e.f. 20.02.1996. Any

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recovery made by the respondents after reducing his pay w.e.f. 01.12.1999 shall be refunded to him within a period of one month from the date of receipt of a copy of this order. However, we do not find any infirmity in the order dated 19.01.2000, in respect of the date of regularisation of the applicant and that order is maintained. No order as to costs.

Amrit
(A.P. NAGRATH)

Adm. Member

S.K. Agarwal
(S.K. AGARWAL)
Judl. Member

Joshi