

THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No. 210/2002
T.A. No.

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Harsh Jee
21/8

Vc 27/8

DATE OF DECISION _____

S.N.Gupta

Petitioner

Mr. C.B. Sharma

Advocate for the Petitioner(s)

Versus

UOI and three others.

Respondent

Mr. Arun Chaturvedi.

Advocate for the Respondents(s)

CORAM:

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

The Hon'ble Mr. A.K. Bhandari, Administrative Member.

(A.K. Bhandari)
Administrative Member.

(G.L.Gupta)
Vice Chairman.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR.

O.A. No. 210/2002.

Date of decision: 22.08.03

S.N. Gupta, S/o Shri Gajanand Gupta aged about 36 years, resident of 18, Jawahar Colony, Sawai Madhopur and presently working as Junior Accounts Officer, Office of General Manager, Telecom District Jhunjhunu

: Applicant.

VERSUS

1. Union of India through its Secretary to the Government of India, Department of Telecommunication, Ministry of Communications, Sanchar Bhawan, New Delhi 110 001.
2. Chief General Manager, Telecom, Rajasthan Circle, Jaipur 302 003.
3. General Manager, Telecom District, Sriganganagar.
4. General Manager, Telecom District, Jhunjhunu

: Respondents.

Mr. C.B. Sharma : Counsel for the applicant.

Mr. Arun Chaturvedi : Counsel for the respondents.

CORAM

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

The Hon'ble Mr. A.K. Bhandari, Administrative Member.



O R D E R

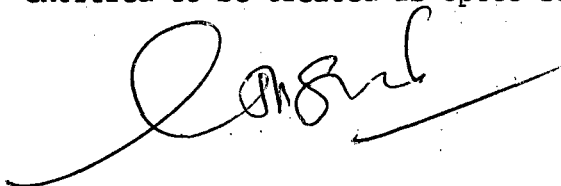
Per Mr. Justice G.L.Gupta:

The applicant seeks directions to the respondents to place him in the scale of pay of Rs.1320-2040 from the scale of pay of Rs.975-1560 with effect from 05.03.95, and in the corresponding scale with effect from 01.01.96, as allowed to other similarly situated persons. He also seeks the quashment of the letter Annex. A.1 dated 31.05.2000.

2. The applicant was initially appointed on the post of Telegraph Assistant on 20.01.89 in the scale of pay of Rs.975-1560. This post was re-designated as Telecom Operative Assistant (TOA for short). In the year 1994, options were called from the TOAs for recruitment in the higher scale post of Senior TOA. The applicant also submitted his option. Vide order dated 31.08.95, Annex. A.4, the department allowed certain officials to officiate in the cadre of Sr. TOA, but it did not include the name of the applicant. The applicant therefore made representation/appeal to the higher authorities. When his grievance was not redressed, he filed O.A. No. 532/95, before this Tribunal, which was dismissed vide order dated 21.12.95, on the ground that it was premature. However the department again called options vide Memorandum dated 01.02.96. This time also the applicant submitted his option, but the applicant was not treated as optee to the restructured cadre. He made representations to the authorities. The same was dismissed vide letter Annex. A.1. Hence this O.A.

3. In the counter, the respondents case is that the claim of the applicant for higher grade was denied to him on two grounds viz. (i) he had not exercised his option within the stipulated time and (ii) there was currency of penalty in the year 1995.

4. We have heard the learned counsel for the parties and perused the documents placed on record. It is seen that vide order dated 09.09.99, (Annex. A.2, the representation of the applicant was allowed and it has been held at para 4 of that order that the applicant was eligible and he is entitled to be treated as optee for the re-structured cadre. The competent



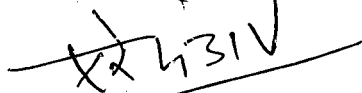
authority has conveyed the sanction of treating the applicant as optee for the Sr. TDA (TG) of DTD, Sriganganagar. This order meets the first ground of denial stated in the reply.

5. As to the second ground it may be stated that the applicant was punished by stoppage of one increment without cumulative effect with effect from 01.08.93, vide order dated 11.06.96. It is evident that in the year 1995, the punishment was not in currency and the applicant could not be denied the benefit of higher scale on that ground.

6. It is seen that in the order Annex. A.1, it has also been stated that there was no vacant post as on 06.03.95 and therefore the applicant could not be given the benefit of the higher scale. This ground has not been stated at para 5(b) of the reply. In any case on the ground of non-availability vacancy the applicant could not be denied the benefit of the higher scale, if any person junior to him was given the benefit of the higher scale. More so, it was not pointed out during the course of arguments that the benefit of re-structured cadre is dependant on the availability of vacancy.

7. For the reason stated above, we are of the view that the applicant was entitled to restructured cadre and also the higher scale of pay.

8. Consequently, the O.A is allowed. The respondents are directed to place the applicant in the higher scale of pay with effect from 06.03.95 with all consequential benefits including the arrears of pay and allowances within a period of three months from the date of communication of this order. No order as to costs.



(A.K. Bhandari)

Administrative Member.



(G.L.Gupta)

Vice Chairman.

jsv.