

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

Max 11/2001  
N/A  
8/11  
8/11/2002

O.A. No. 292/2001  
T.A. No.

199

DATE OF DECISION \_\_\_\_\_

Manohar Singh Chauhan \_\_\_\_\_ Petitioner

Mr. P.N.Jatti \_\_\_\_\_ Advocate for the Petitioner (s)

Versus

Union of India and two others. \_\_\_\_\_ Respondent

Mr. B.N.Sandu \_\_\_\_\_ Advocate for the Respondent (s)

**CORAM :**

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

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

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 ?

( A.P. Nagrath )  
Administrative Member

(G.L.Gupta)  
Vice Chairman.

CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 292/2001

Date of Order: 16.01.03

Manohar Singh Chauhan s/o Shri Nathu Singh Chauhan by caste Rajput aged about 59 years, Resident of 89, Gah-4-5 New Goving Nagar, Ramganj Ajmer, presently working as Sr. T.O.A. (TG) O/O G.M.T.D. Ajmer.

...Applicant.

V E R S U S

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

...Respondents.

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

Mr. B.N. Sandu, 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 :

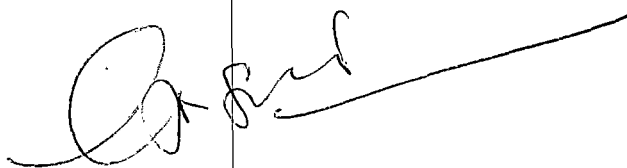
PER MR. JUSTICE G.L. GUPTA:

The reliefs claimed in this O.A. are these:

- "i) by a suitable writ/order or direction the respondents be directed to refund the money which was paid against the pay and allowances of Sr.TOA(T.G) with effect from 23.8.96 to 31.3.97 which has been recovered illegally and arbitrarily.
- ii) the order dated 1.4.97 vide Annexure A/6 and the impugned order dated 21.8.2000 vide Annex A/1 be quashed and set aside and the humble applicant prays the humble applicant be treated as Sr.T.O.A.(T.G) with effect from 1.4.97 to 4.4.99 with all consequential benefits.
- iii) any other relief which the Hon'ble Bench deems fit.

It is stated that the applicant who is an employee in the Department of Telecom was asked if he wanted to be appointed in the restructured cadre. On his option the applicant was sent for training and after completion of the training he was appointed as Sr. T.O.A.(T.G) in the scale of pay of Rs.1600-2660. While the applicant was working as such, vide order dated 1.4.97, his option was declared as ineffective and the benefits granted to him under the promotion earlier were withdrawn. He made representation against the action of the respondents, but the C.G.M. rejected his representation vide communication dated 21.8.2000. Hence this O.A.

2. In the counter the respondents' case is that the scheme of Sr. T.O.A was introduced for the first time in the year 1990 and the Rules for introduction in Sr. TOA were introduced vide letter dated 27.4.94. It is stated that as per the Scheme options were called for from the employees in the year 1993. At that time the applicant had not opted.



Again options were called for in the year 1996 and the applicant along with others applied for the post of Sr. T.O.A. Out of the two categories the applicant was selected for the Walk-in-Group category, but as the qualifying screening test could not be held, no select panel could be drawn and that resulted in Junior TOAs getting promotion depriving the senior persons. A complaint was made to the higher authorities. The C.G.M.T. vide letter dated 8.2.97 declared the options called vide letters dated 1.2.96 and 3.10.96 as inoperative for all purposes. That resulted in the reversion of the officials including that of the applicant to the substantive post of TOA from Sr. T.O.A. It is the further case for the respondents that on 11.11.97 the Directorate of Telecommunications again called the options for restructured cadre and the applicant also applied for the same. This time the screening test was conducted and the applicant was given appointment to the post of Sr. TOA without sending him for the training since he had already undergone the training. It is stated that the promotion to the post of Sr. TOA of the applicant was purely on temporary and adhoc basis and therefore the applicant's representation has been rightly rejected.

3. The applicant has filed rejoinder disputing some of the facts stated in the reply.

4. We have heard the learned counsel for the parties and perused the documents placed on record.

5. Mr. P.N. Jatti, learned counsel for the applicant pointing out that various persons had been reverted alongwith the applicant from the post of Sr. T.O.A. to the post of T.O.A. and they had filed O.A. No. 213/98 before the Jodhpur Bench of this Tribunal and the same was



allowed vide order dated 22.6.99, contended that Smt. Sunita Dak and one Laxman Singh Jhala who were junior to the applicant have been allowed to continue on the higher post on the basis of the Tribunal's order and therefore the applicant could not be reverted and he was entitled to continue on the post of Sr. T.O.A. He submitted that the applicant be deemed to be continued on the post of Sr. T.O.A. and the benefits withdrawn from him should be refunded to him. During the course of the arguments, Mr. Jatti showed to us a gradation list of Telegraph Assistants of Ajmer as on 1.1.90 wherein the name of the applicant figures at Sl. No. 9 and the names of Smt. Sunita Dak and Laxman Singh Jhala have been shown at Sl. Nos. 86 and 83 respectively. Inviting our attention to the representation (Annexure A/10) made by the applicant on the basis of the judgement of the Tribunal dated 26.6.99, Mr. Jatti contended that as the persons junior to the applicant had been retained on the post of Sr. T.O.A. and the withdrawn benefits were refunded to them, the applicant is entitled to the same relief.

6. The learned counsel for the respondents, on the other hand, contended that the gradation list shown during the course of the argument does not bear number nor the covering letter therefore it should not be taken on record. He stated that he is not in a position to say whether the position stated in the gradation list still continues or not. His further contention was that the applicant did not challenge the order Annexure A/6 dated 1.4.97 within the period of limitation and in the garb of the order dated 21.8.2000 he should not be allowed to challenge the said order.

7. We have given the matter our thoughtful consideration. It is true that the applicant ought to have challenged the order dated



1.4.97 (Annexure A/6) within the time limit which he did not do. The applicant as a matter of fact seeks relief on the basis of the decision rendered by the Jodhpur Bench of this Tribunal in O.A. No. 213/98. However, it is seen that there is no material on record to hold that the applicant was senior to those persons who had succeeded in O.A. No. 213/98. It is noticed that even in the representation Annexure A/10 it is nowhere stated that the applicant was senior to the applicants of O.A. No. 213/98 before the Jodhpur Bench of this Tribunal.

8. In the order Annexure A/1 dated 21.8.2000, it is stated that the applicant's claim for appointment in re-structured cadre from the date of his completion of the training was not acceptable. As already stated it is evident from the representation that the applicant had not pleaded that because he was senior to the applicants in O.A. No. 213/99 he was entitled to the same relief. Having considered the entire material on record particularly the gradation list shown to us, we think it a fit case where the applicant should be permitted to make fresh representation to the respondents.

9. The applicant may make fresh representation to the respondents pointing out his grievance. The respondents are directed to dispose of the said representation by a speaking order within three months from the date of receipt of such representation from the applicant. The applicant is at liberty to challenge the order of the respondents before the appropriate forum.

10. The application stands disposed of accordingly. No order as to costs.

  
( A.P. NAGRATH )

Adm. Member

  
( G.L. GUPTA )

Vice Chairman