IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Order : 23.5.2002

O.A. No. 572/2001.

D. R. Balai s/o Late Shri Ram Dev by caste Balai, aged about 50 years, resident of village Rajpura, Tensil Shanpura, Dist. Jaipur, presently working as Chief Telephone Supervisor O/o Principal General Manager, Jaipur District, Jaipur-10.

... 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, Telecom, Rajasthan Circle, Jaipur-8.

3. Principal General Manager, Telecom District Jaipur-10.

... RESPONDENTS.

Shri P. N. Jatti counsel for the applicants.
Shri B.N. Sandu, counsel for the respondents.

CORAM

Hon'ble Mr. M. P. Singh, Administrative Member.
Hon'ble Mr. J. K. Kaushik, Judicial Member.

: O R D E R :
(per Hon'ble Mr. J. K. Kaushik)

In this application under Section 19 of the Administrative Tribunals Act, 1985, applicant, D. R. Balai, has prayed for quashing the impugned order dated 29.08.2001 with Corrigendum dated 3.9.2001 at Annex. A/1.

2. Applicant's case is that he has been working on the post of Chief Telephone Supervisor, in the Department of Post and Telegraph. That the respondent-department introduced a Biennial Cadre Review Scheme

(for short 'BCR' Scheme) in the Department of Telecommunications w.e.f. 16.10.1990 Under this scheme, 10% of the employees were eligible to higher pay scale of Rs. 2000-3200. The applicant had rendered 26 years of service as on 1.10.1990 and was thus eligible to be considered for grant of higher pay scale of Rs. 2000-3200 under 10% quota w.e.f. 1.2.1995. The respondent-department issued reversion order of the applicants on 29.08.2001. It is contended by the applicant that in terms of the law laid down by Hon'ble the Supreme Court in Ajeet Singh's-II case, reserved category candidate promoted prior to 1.4.1997 would not be reverted though, they should be allowed to continue on the promotional post on ad noc basis. Hence, this application.

3. In the counter, it has been stated by the respondents that the applicants were not eligible to be considered for grant of higher pay scale of Rs. 2000-3200 under the BCR scheme. It has, therefore, been urged by the respondents that this application is devoid of any merit and is liable to be dismissed.

4. We have heard the learned consel for the applicant and perused the record of the case carefully.

5. A similar controversy had come up before the Jodhpur Bench of the Central Administrative Tribunal in OA No. 317/1999, Bhagwan Das vs. U.O.I. & Ors., decided

on 11.07.2001. This issue was also agitated in OA No. 446/2001, Ram Pratap Meena vs. U.O.I. & Ors., decided on 4.4.2002, where one of us (Mr. J. K. Kaushik), was a member of tne Bench. In that case, it was held by the Jodhpur Bench that in terms of Government's letter dated 13.2.1997 (Annexure A-14) in-eligible persons promoted to grade IV were not to be reverted but supernumerary posts were to be created for those persons as personal to them. We consider it appropriate to extract below letter dated 13.2.1997 :-

"Sub : Amendment to DGT orders of even number dated 10.5.96 regarding procedure for promotions to Grade IV in the scale of 2000-3200 against 10% posts in the BCR Scheme.

Para 2(II) and 2 (III) of tnis office letter of even number dated 10.5.96 is here by amended to read as follows :

Para 2 (II) Those promoted officials who will be rendered ineligible for promotions to Grade IV in persuance of the orders even number dated 13.12.1995 may be protected from reversio by creating as many supernumerary posts as required from to person to person basis.

Para 2(III) The supernumerary posts thus created to protect reversion of ineligible officials promoted to Gr. IV up to 13.12.95, by a different interpretation shall get abolished automatically on vacation of the posts by incumbents due to retirement, promotions/shifting to otner grade etc. or till they become eligible for promotion to Gr. IV in their normal turn. Promotions of eligible officials shall continued to be made as per rule and in accordance with the judgement and the instructions issued in the order of even number dated 10tn December 1995.

The above amendment to para 2 of this order dated 10.5.96 has the approval of Telecom Commission and issued with the Finance concurrance under thie O.O. No. 316/FA-I/97 dated 12.2.97."

Irrespective of the fact whether the applicant has been promoted under roster reservation or otherwise under the BCR Scheme, his promotion deserves to be protected under the above mentioned letter. Accordingly, we find much merit in this application and the same deserves to be allowed.

6. The O.A. is accordingly allowed. The impugned order dated 29.08.2001 (Annexure A-1) and the Corrigendum dated 03.09.2001(placed at page No. 17 of the case file), are quashed and set aside with all consequential benefits.

7. The parties are, however, left to bear their own cost.

(J. K. KAUSHIK)
MEMBER (J)

(M. P. SINGH)
MEMBER (A)