

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Order : 22-5-2002

O.A. NUMBERS : 36, 37, 38 and 52 of 2002.

1. Ram Dayal Nagar, s/o Shri Balu Ram Nagar, aged about 56 years, Resident of 28, Shari Kalyan Nagar Rajio Ka Bagh, Jaipur, presently working as Chief Technical Supervisor O/o Principal General Manager Telecom, District Jaipur.

...Applicant in OA 36/2002

2. M. P. Gothwal s/o Shri Nand Ram Gothwal, aged about 53 years, resident of 78, Avadhupuri, Near Bus stand 80 Feet Road, Jaipur, presently working as Chief Technical Supervisor, O/o Principal General Manager, Telecom District, Jaipur - 10.

...Applicant in OA 37/2002

3. Amar Singh Meena s/o Ayodhya Prasad Meena, aged about 55 years, resident of A-15, JP Colony, Jaipur, presently working as Chief Technical Supervisor in the office of Principal General Manager Telecom District, Jaipur.

...Applicant in OA 38/2002

4. M. P. Meena s/o Shri Mool Chand Meena, aged about 55 years, resident of Adarsh Meena Colony, Dausa, presently working as Chief Technical Supervisor O/o S.D.O. Phones, Dausa.

...Applicant in OA 52/2002

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.
3. The Principal, General Manager, Telecom District, Jaipur.

... Respondents in all the OAs.

Shri P. N. Jatti, counsel for the applicants.
Shri R. L. Agarwal, Advocate, Proxy counsel for
Shri Bhanwar Bagri, counsel for the respondents.

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CORAM

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

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ORDER

(per Hon'ble Shri J. K. Kaushik)

The controversy involved in all these applications and the relief prayed for by the applicants are common, therefore, all the four applications are being disposed of by this common order.

2. The controversy involved in these cases had also come up before the Jodhpur Bench of the Central Administrative Tribunal in OA No. 317/1999 (Bhagwan Das vs. Union of India and ors.) decided on 11.7.2001. The controversy came up for adjudication before this Bench in OA No. 6/2002 L.R. Meena vs. U.O.I. & Ors., where one of us (Mr. J. K. Kaushik), was a member of the Bench. In that case, it was held by the Jodhpur Bench that in terms of Government's letter dated 13.02.1997 (Annex. A/8) 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. It was also held by the Jodhpur Bench in the

above mentioned case that in terms of the judgement of Hon'ble the Supreme Court in Ajeet Singh's - II case, (1999, SCC (L&S) 12) a reserved category candidate promoted in excess of the prescribed percentage prior to 1.4.1997, would not be reverted though, he may be continued on ad hoc basis, the applicant belonging a scheduled caste candidate, gets protection under this law also. We consider it appropriate to extract below letter dated 13.2.1997 issued by the Department of Telecommunication in this regard:-

"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 this office letter of even number dated 10.5.96 is hereby amended to read as follows :

Para 2(II) Those promoted officials who will be rendered ineligible for promotions to Grade IV in pursuance of the orders even number dated 13.12.95, may be protected from reversion 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 other 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 10th 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 concurrence under their O.O. No. 316/FA-I/97 dated 12.2.97."

Irrespective of the fact whether the applicants have been promoted under roster reservation or otherwise

under the BCR Scheme, their promotion deserves to be protected under the above mentioned letter. Accordingly, we find much merit in these applications and the same deserve to be allowed.

3. The Original Applications are accordingly allowed. The impugned order dated 28.12.2001, at Annexure A/1, in OA No. 36/2002 and order dated 20.11.2001 at Annexure A/1 in OA Nos. 37/2002, 38/2002 and 52/2002, are hereby quashed and set aside with all consequential benefits. No costs.

SK
(J. K. KAUSHIK)
MEMBER (J)

SP
(M. P. SINGH)
MEMBER (A)

TRUE COPY ATTESTED

Section Officer (Judicial)
Central Administrative Tribunal
Jaipur Bench, JAIPUR