

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :: GUWAHATI-5.

O.A. NO. 67 of 1997
T.A. NO.

DATE OF DECISION 25.6.1997

Shri Pashupati Mahto

(PETITIONER(S))

Mr A.C. Sarma

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India and others

RESPONDENT (S)

Mr S. Ali, Sr. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT (S)

THE HON'BLE MR G.L. SANGLYINE, ADMINISTRATIVE MEMBER
THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the Judgment ? *yes*
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ? *NO.*
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Administrative Member

Sanglyine
25/6/97

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.67 of 1997

Date of decision: This the ^{25th} day of June 1997

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Shri Pashupati Mahto,
Executive Engineer,
Postal Civil Division,
Guwahati.

.....Applicant

By Advocate Mr A.C. Sarma.

-versus-

1. Union of India, represented by the
Secretary/Chairman,
Department of Telecommunication,
New Delhi.
2. The Director General,
Department of Posts,
New Delhi.
3. The Chief Postmaster General,
Assam Circle,
Guwahati.

.....Respondents

By Advocate Mr S. Ali, Sr. C.G.S.C.

.....

O R D E R

SANGLYINE.J., MEMBER(A)

The applicant is holding the substantive post of Assistant Engineer (Civil) in the Department of Posts in the scale of Rs.2000-60-2300-75-3200-100-3500. He was promoted to the grade of Surveyor of Works (Civil) in the scale of pay of Rs.3000-100-3500-125-4500 on ad hoc basis. He was promoted for a short spell of eighty nine days and thereafter reverted to his original post for brief period and

after which he was again given a short spell of ad hoc promotion. This has continued since 1994. The position till date of filing of this application, as available is as below with dates of orders of promotion and reversion given under brackets:

<u>Date of Ad hoc Promotion</u> <u>to higher post</u>	<u>Date of Reversion</u> <u>to the lower post</u>
11.11.1994 (4.11.1994)	7.2.1995 (3.2.1995)
9.2.1995 (8.2.1995)	8.5.1995 (12.6.1995)
10.5.1995 (12.6.1995)	6.8.1995 (21.8.1995)
8.8.1995 (21.8.1995)	4.11.1995 (6.12.1995)
6.11.1995 (16.12.1995)	2.2.1996 (1.3.1996)
5.2.1996 (1.3.1996)	3.5.1996 (13.5.1996)
6.5.1996 (13.5.1996)	2.8.1996 (17.9.1996)
5.8.1996 (17.9.1996)	1.11.1996 (26.12.1996)
4.11.1996 (26.12.1996)	

The applicant had joined in Guwahati on transfer from Vishakhapatnam on 23.4.1996 in the Department of Posts. While he was on ad hoc promotion in Vishakhapatnam the Superintending Engineer (Civil), Telecom Civil Circle, Vishakhapatnam, had fixed the pay of the applicant in the higher post on 22.12.1995 at *Rs.3625/- in the scale of pay of* Rs.3000-4500 with effect from 11.11.1994 and Rs.3750 with effect from 15.11.1995 as next date of increment after adjustment of periods covered by the reversion above as not counted for increment. The Chief Postmaster General, Assam Circle, Guwahati, respondent No.3, disagreed with the Telecom Authority of Vishakhapatnam. He *revised* the fixation of pay vide impugned order dated 27/28-11-1996, Annexure-18. He arrived at the conclusion that the applicant is

not.....

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not entitled to any increment in the scale of pay of Rs.3000-4500 as he was promoted in that grade purely on ad hoc basis and was being reverted back to his substantive grade on completion of every eighty-nine days in the higher grade.

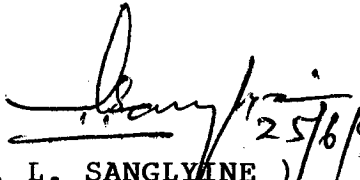
2. The applicant is aggrieved with the denial of the increment and has disputed the correctness of the action of respondent No.3. Mr A.C. Sarma, learned counsel for the applicant, submits that the applicant is entitled to annual increments in the scale of pay of Rs.3000-4500. According to him, though the respondents had ordered notional breaks or reversion of one or two days the applicant, in fact, was never posted to any post in the lower grade and had not joined any such lower post during the periods of notional breaks or during the period of reversion. Therefore, there was, in fact, continuity of the applicant in the higher grade with pay scale of Rs.3000-4500. The applicant is entitled to increment in that scale by deferring the date of next increment as had been done by the authority in Vishakhapatnam in the case of the applicant. Mr Sarma further pointed out to paragraph 1 of the written statement of the respondents and submits that the respondent No.3 has no basis to support his action because the Government of India's order quoted by them therein is not relevant to the issue under consideration. Mr S. Ali, learned Sr.C.G.S.C., on the other hand, supports the action of the respondents and submits that the applicant is not entitled to increment in the scale of pay of the higher post as his ad hoc promotion was

only.....

only for eightynine days on each occasion and a fresh promotion was issued after each reversion period ~~was~~ over. According to him granting of annual increment in the manner claimed by the applicant would, therefore, be irregular and not permissible under the rules.

3. I have heard the counsel of both sides. I find that the applicant was actually and physically continuing in the higher post in the scale of pay of Rs.3000-4500 ~~from 11.11.1994 to~~ ^{since} 9.2.1995. This is evident from the orders of the so called reversions and repromotions which after that date, 9.2.1995, were issued only long after the alleged reversions and repromotions took place. In my opinion in view of this fact the applicant is entitled to get his increment in the scale of pay of the higher post, namely, in the scale of pay of Rs.3000-4500. The respondents are directed to allow the increment to the applicant. This shall be completed within thirty days from the date of receipt of the order by respondent No.3.

4. The application is allowed as indicated above.
No order as to costs.


(G. L. SANGLYNE)
MEMBER (A)