

50/100

10

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

(See Rule 42)

ORDER SHEET

Misc. Petition No. 118 / 200

Contempt Petition No.

Review Application No. _____

Applicant(s) Chinmay Kr. Deb

Respondent(s) H.O.I. Jones

Advocate for Applicant(s) A. C. Bomagochin

Advocate for Respondent(s) _____

Notes of the Registry	Date	ORDER OF THE TRIBUNAL
<p>11.4.02</p> <p>28E878807-11</p> <p>9.4.2002</p> <p>11/4/02</p> <p>Notice prepared and sent to D/s for filing the Respondent No 1 to 4 by Regd A/D.</p> <p>17/4/02</p> <p>D/N No 12651/68</p> <p>Dtd 30/4/02</p>	<p>11.4.02</p> <p>mb</p> <p>9.5.02</p> <p>mb</p>	<p>Heard Mr. N. Bora learned counsel for the applicant.</p> <p>The application is admitted. Call for the records.</p> <p>List on 9/5/2002 for further orders.</p> <p>Member</p> <p>Vice-Chairman</p>
<p>① Service report are still awaited.</p> <p>8.5.02</p> <p>No. wts has been filed.</p> <p>6/6/02</p>	<p>mb</p>	<p>List on 7.6.2002 to enable the Respondents to file written statement.</p> <p>Member</p> <p>Vice-Chairman</p>

7.6.02 List on 4.7.2002 to enable the Respondents to file written statement.

K. U. Sharma
Member

Vice-Chairman

mb

4.7. Circuit Bench at Agartala.
The case is adjourned to 18/7/2002.

Mrs.
A. Deb Roy
4/7

18.7.2002 On the prayer made By Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents four weeks further time is granted to the respondents to file written statement.

List the case again for order on

20.8.2002.

No written statement
has been filed.

30
19.8.02

K. U. Sharma
Member

Vice-Chairman

bb

20.8.02 No written statement so far filed though time granted. On the prayer of Mr. A. Deb Roy, learned Sr. C.G.S.C. for the Respondents further four weeks time is allowed to the Respondents to file written statement, if any. List on 4.9.2002 for orders.

No w/s has been
filed.

30
3.9.02

K. U. Sharma
Member

Vice-Chairman

mb

4.9.02 On the prayer of Mr. A. Deb Roy, learned Sr. C.G.S.C. for the Respondents further four weeks time is allowed to the Respondents to file written statement. List on 7.10.2002 for orders.

NO w/s has been
filed.

NS
4/10/02

K. U. Sharma
Member

Vice-Chairman

mb

Notes of the Registry	Date	Order of the Tribunal
	7.10.02	<p>List on 15.11.02 to enable the respondents to file written statement as prayed by Mr.B.C.Pathak, learned Addl.C.G.S.C.</p> <p><i>K.U. Sharma</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>1m</p> <p>15/11</p> <p>Due to circuit sitting at Gilling, the case is adjourned to 28/11/2002.</p> <p><i>Ms A.K. Jais</i></p>
<p>17.10.02</p> <p><i>Wfs - submitted by the Respondent</i></p> <p><i>[Signature]</i></p>	28.11.02	<p>Pleadings are completed.</p> <p>The case may now be listed for hearing on 3.1.03. In The applicant may file rejoinder if any within 3 weeks.</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>1m</p>
<p>No. rejoinder filed by the applicant.</p> <p><i>[Signature]</i> 7.1.03</p>	3.1.2003	<p>Due to vacation, the case is adjourned to 8/1/2003 for hearing.</p> <p><i>Ms A.K. Jais</i></p>
<p>8.1.2003</p> <p>Rejoinder has been filed by the applicant through his Advocate at flag 'A'</p> <p><i>[Signature]</i> 8/1/03</p>	8.1.2003	<p>Present: Hon'ble Mr Justice V.S. Aggarwal, Chairman</p> <p>Hon'ble Mr K.K. Sharma, Administrative Member</p> <p>At the request of the learned counsel for the applicant the case may be listed in regular matters for hearing on 4.2.2003.</p> <p><i>K.U. Sharma</i> Member</p> <p><i>[Signature]</i> Chairman</p> <p>nkm</p>
	4.2.2003	<p>On the prayer of Mr. S.C.Buragohain, learned counsel for the applicant, the case is adjourned. List again on 3.3.2003 for hearing.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>mb</p>

(4)

Notes of the Registry	Date	Order of the Tribunal
The case is ready for hearing. 29.5.03	23.4.03	Case did not sit today, the case is adjourned to 23/4/2003. The case is adjourned to 20/5/2003.
	30.5.2003	Present: The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman The Hon'ble Mr. S.K. Haqra, Administrative Member. The case is adjourned and listed on 30.6.2003 again for hearing in presence of Mr. A. Deb Roy, Sr. C.G.S.C.
	30.6.2003	Division Bench did not sit today, the case is adjourned to 4/8/2003.
bb	4.8.2003	Present: The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman. The Hon'ble Mr. N.D. Dayal Administrative Member. None appears for the applicant. List the case again on 5.8.2003 for hearing.
	5/8/03	None appears for the applicant. Put it on 6/8/03 for hearing.
6.8.		None appears for the applicant, list again on 7/8/2003.

(5)

7.8.2003 None appears for the applicant
today also. Pass over. Put up again on
8.8.2003 for hearing.

Member

Vice-Chairman

mb

8.8.2003 None appears for the applicant to-day also. List on 13.8.2003 for hearing again in presence of the learned counsel for the applicant.

Member

Vice-Chairman

mb

12.8.03

Adjourned. List for hearing on 3.9.03.

By order

3.9.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

The Hon'ble Mr. K.V. Prahaladan Administrative Member.

On the prayer of Mr. A.G. Buragohain, learned counsel for the applicant the case is adjourned. Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents has no objection. List the matter again on 8.9.2003 for hearing.

K.V. Prahaladan
Member

Vice-Chairman

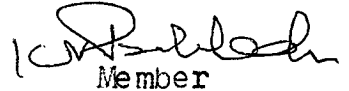
mb

~~8.9.03 - 18.9.03 - 18.9.03 - 18.9.03~~

8.9.03 No D.B. List on 18.9.03

03/0


18.9.2003 No Division Bench is sitting today.
Put up again on 22.10.2003 for hearing.


Member

mb

The case is ready for
hearing as regards written
statement & rejoinder.

22.10.03

 20-11-03.

NT
19/11/03

870
la

20.11.2003 Present: Hon'ble Smt Lakshmi
Swaminathan, Vice-Chairman
Hon'ble Shri S.K. Naik,
Administrative Member.

None for the applicant. Shri A.
Deb Roy, learned Sr. C.G.S.C. for the
respondents has been partly heard.
List as part heard on 21.11.03 on
which date if none appears for the
applicants it will be presumed that
they are not interested in pressing
the O.A.


Member

nkm


Vice-Chairman

21.11.2003 Mr.N.Borah, learned counsel for the
applicant and also Mr.A.Deb Roy, learned
Sr.C.G.S.C. for the respondents. Court
time is over. O.A. is released from part
heard.

List on 10.12.2003.


Member

bb


Vice-Chairman

O.A.No.118/2002

8 8

Office Note


Date

Tribunal's Order

23.12.2003

Present: Hon'ble Mr Justice B.
Panigrahi, Vice-Chairman
Hon'ble Mr K.V. Prahaladan,
Administrative Member.

Heard the learned counsel for
the parties. Hearing concluded. Orders
passed separately.


Member


Vice-Chairman

nkm

16.1.04

Copy of the
Judgment has been
sent to the D/Sec
for issuing the
same to the applicant
as well as to the
A.C.G.S.C.

HS

Office Note

Tribunal's Order

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A./R.A.No. 111118 of 2002

DATE OF DECISION 23.12.2003

Shri Chinmoy Kumar Deb and 3 othersAPPLICANT(S).

Mr A.C. Buragohain, Mr N. Bora and
Mr H.K. Mahanta.ADVOCATE FOR THE
APPLICANT(S).

-VERSUS-

The Union of India and othersRESPONDENT(S)

Mr A. Deb Roy, Sr. C.G.S.C.ADVOCATE FOR THE
RESPONDENT(S).

THE HON'BLE MR. JUSTICE B. POANIGRAHI, VICE-CHAIRMAN

THE HON'BLE MR K.V. PRAHALADAN, ADMINISTRATIVE MEMBER

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

Judgment delivered by Hon'ble ~~Member~~ Vice-Chairman

12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.118 of 2002

Date of decision: This the 23rd day of December 2003

The Hon'ble Mr Justice B. Panigrahi, Vice-Chairman

The Hon'ble Mr K.V. Prahaladan, Administrative Member

1. Shri Chinmoy Kumar Deb
S/o Late Upendra Kr Deb
Shaileasree Lane,
Tarapur, Silchar.
2. Shri Jyotish Chandra Das
S/o Late Suresh Ch Das
Telecom Complex Block-I,
Type-3, Room No.3,
National Highway, Silchar.
3. Shri Amalendra Purkayastha
S/o Late Khироidev Purkayastha
Telecom Complex No.1,
Block-I, Type-3, Room No.6,
National Highway, Silchar.
4. Shri Manindra Chandra Paul
S/o Late Mahendra Ch Paul
Land No.6, Bibeka Nanda Road,
Silchar.

.....Applicants

By Advocates Mr A.C. Buragohain,
Mr N. Bora and Mr H.K. Mahanta.

- versus -

1. The Union of India, through
The Chairman,
Telecommunication Department,
Sanchar Bhawan, New Delhi.
2. The Chairman-cum-Managing Director,
B.S.N.L. Statement Building,
New Delhi (represented by the
Chief General Manager, Assam).
3. The Chief General Manager, Telcom
B.S.N.L., Assam Telecom Circle,
Ulubari, Guwahati.
4. The General Manager, Telecom
B.S.N.L., Silchar Telecom District,
Bilpara, Silchar.

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....



17

O R D E R (ORAL)

PANIGRAHI. J. (V.C.)

These applicants were originally appointed as Telegraphist. In course of employment they were, ofcourse, given ad hoc promotion to function as Assistant Telegraph Master. After implementation of the One Time Bound Promotion Scheme, the applicants after completion of sixteen years of service were given promotion to Telegraph Master on 30.11.1983. The applicant 4 in the meantime has retired from service since 30.6.2001. The applicant, therefore, has claimed benefits under the pre-amended FR 22-C corresponding to FR 22 (I)(a)(1) quoted hereinbelow:


"Where a Government servant holding a post, other than a tenure post, in a substantive or temporary or officiating capacity is promoted or appointed in a substantive, temporary or officiating capacity, as the case may be, subject to the fulfilment of the eligibility conditions as prescribed in the relevant Recruitment Rules, to another post carrying duties and responsibilities of greater importance than those attaching to the post held by him, his initial pay in the time-scale of the higher post shall be fixed at the stage next above the notional pay arrived at by increasing his pay in respect of the lower post held by him regularly by an increment at the stage at which such pay has accrued or (rupees one hundred only) whichever is more."

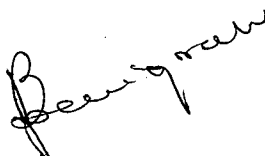
2. An initial objection has been raised by the respondents that since these applicants, on a temporary arrangement were allowed to function on ad hoc basis as Assistant Telegraph Master without any regular appointment, therefore, they cannot claim benefit under FR 22(I)(a)(1). Had they been regularly appointed as Assistant Telegraph Master through DPC, their cases could have been considered regarding such financial benefit as stated in FR 22(I)(a)(1).

B.

3. The learned counsel for the applicants has brought to our notice that two other employees, namely A.K. Mishra and R.C. Paul who were similarly appointed as Assistant Telegraph Master on ad hoc basis have been given the benefit under FR 22(I)(a)(1) on the basis of judgments passed by the Tribunal in O.A.134 of 1993 and O.A.225 of 1994. In this background, if the other employees who were similarly situated as that of the applicants, in the past had been given such benefit we are at a loss to understand why the same benefit should be denied to these applicants. Accordingly we hereby direct the respondents to examine the applicants' case in the light of the judgments stated above and if they are found eligible they shall also be given the benefit like the others within three months from the date of communication of this order.

The application is allowed. No order as to costs.


(K. V. PRAHALADAN)
ADMINISTRATIVE MEMBER


(B. PANIGRAHI)
VICE-CHAIRMAN

DISTRICT: KAMRUP

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GAUHATI BENCH

O.A NO..118../2002

BETWEEN

Sri Chinmoy Kumar Deb.

...Applicant.

- Versus -

The Union of India and others.

...Respondents.

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(NIRAN BORAH)

Signature of the
Advocate.

For use in the Tribunals' Office.

Date of filling:

Registration No.:

Signature.

Bans by S.2p 7 ATAC

Line -

29.7.0K

Box 8P41

DISTRICT: KAMRUP.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH: GUWAHATI.

(AN APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE
TRIBUNAL ACT. - 1985).

ORIGINAL APPLICATION No. Of...118... /2002

BETWEEN

1. Sri Chinmoy Kumar Deb
S/o- Late Upendra Kr. Deb,
Shaileasree Lane, Tarapur-7
Silchar-788008
2. Sri Jyotish Chandra Das.
S/o-Late Suresh Ch. Das,
Telecom Complex Block-I
Type-3, Room No.3
National Highway,
Silchar-12.
3. Amalendra Purkayastha.
S/o Lt. Khirodev Purkayastha
Telecom Complex No.1,
Block-I, Type-3, Room No.6
National Highway,
Silchar-12.
4. Manindra Chandra Paul.
S/O-Late Mahendra Ch. Paul
Land No.6, Bikeka Nanda
Road, Silchar-7

...Applicant.

Contd..

Filed by
Nizam Basak
Advocate
2-4-2002

Chinmoy Kumar Deb,

- AND -

1. The Union of India.
Chairman, Telecommunication Department Sanchar Bhawan, New Delhi.
2. The Chairman cum Managing Director
B.S.N.L. Statement building, New
Delhi-1 (Represented by Chief
General Manager) Assam.
3. The Chief General Manager Telecom,
B.S.N.L. Assam Telecom Circle,
Ulubari, Guwahati-7.
4. The General Manager, Telecom,
B.S.N.L., Silchar Telecom District,
Bilpara - Silchar-1.

...Respondents.

DETAILS OF APPLICATION:

1. PARTICULARS OF THE ORDER AGAINST WHICH THE
APPLICATION IS MADE:

The applicant is made:

- i) To fix pay in the post of lower selection
Grade Telegraph Master according to R.R.-22-
C (NOW F.R.22 1.(a) (i))
- ii) To treat the post of Telegraph Master as
having higher duties and responsibilities
with consequential benefit by extending the
benefit of Judgment and decision of the
Principal Bench of Tribunal, Calcutta Bench,
Hyderabad Bench, Ernakulam Bench and Patna
Bench, and this Bench of this Hon'ble
Tribunal.

Chinmay Kumar Das,

Telecom
ATM
TM

Contd..

iii) Order No.-E-28/STT/Genl/108 dated 25-7-2000 issued by Divisional Engineer (P&A) office of the General Manager, Telecom, Silchar.

(Annexure-8) (Page- 41)

2. JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of the instant application is within the Jurisdiction of the Hon'ble Tribunal.

3. LIMITATIONS:

The applicant further declares that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunal Act.1985.

4. FACTS OF THE CASE:

4.1 That, the applicants are all India Telegraph Traffic Employees, class-III, Assam Circle and they were promoted from the post of Assistant Telegraph Master (A.T.M) to the post of Telegraph Master (T.M.). The respective dates of their such promotion and their present place of posting are also shown against their name. It is pertinent to mention here that the applicant No.4, namely Sri M.C. Paul has already retired on superannuation 30-06-2001 and other three applicants are going to be retired soon. There date of effect of promotion and the place of posting are Annexed here to marked as Annexure - 1

4.2 That, the applicants respectively states that they have been promoted to the grade of I.M. on 30-11-1983.

Contd..

ATM
TM

Chunmoy Kumar Deb.

4.3 That, prior to Third Central Pay Commission i.e. before 01-01-73 there were two separate cadres with the separate pay scales viz. Telegraphist and Telegraph Master. In between the above Two Cadres there was one allowed post viz. Teleprinter Supervisor (T & P). The Third Central Pay Commission recommended three cadres.

(a) Telegraphists; (b) Assistant Telegraph Master; and (c) Telegraph Master. The scales of pay proposed were as follows: -

(a) Telegraphists	Rs. 260 - 480/-
(b) Assistant Telegraph Manager	Rs. 380 - 560/-
(c) Telegraph Master	Rs. 425 - 640/-

the Government accepted the recommendation of the pay Commission and implemented the above noted scales of pay with effect from 01-07-73.

4.4 That, thereafter-on 01-06-74, the Department introduced a new scheme by which 20% of the total staff strength was upgraded as Telegraph Master Operational. Thereafter in August 1983, the Department upgraded all the Assistant Telegraph Master posts to Telegraph Master posts by cutting 15% in strength. Subsequently in 30-11-83, the Department introduced one time-bound promotion scheme under which persons who have completed 16 years of service were promoted, the pay scales for the post of Telegraph Master remained Rs.425 - 640/-

4.5 That, on implementation of the scheme noted above, some Assistant Telegraph Masters, also get promotion to the post of Telegraph Masters.

Contd..

Chinnoy Kumate Del-

4.6 That, as a result of promotion from the post of Telegraphists to that of the Telegraph Masters and of the officials had to shoulder higher responsibilities as per their promotions. On the promotion to the post of A.T.M.S. their pay was fixed by following F.R. 23-C in the scale of Rs.380 - 560/- by relying of Directorate General letter dated 29-11-78.

A copy of the aforesaid letter dated 29-11-78 is annexed here to and marked as Annexure - '2',
(Page- 18).

4.7 That, as per this letter, the Cadre of A.T.M.S. created with effect from 01-01-73 remained in scale of Rs.380 - 560/-. Telegraphists of their promotion to A.T.Ms. Cadre were to be fixed under the provisions of F.R. 22-C (NOW F.R.22.1.(a)(i)). Treating the appointment as involving higher duties and responsibilities. However, as per this letter, the appointment of A.T.M.S. as Lower Selection Grade Telegraph Masters (LSGTMs) will be considered as not involving higher duties and responsibilities and their pay on appointment as L.A.S. GTMs. shall be fixed at the same stage at which their pay is drawn in A.T.Ms Cadre.

4.8 That, the applicants respectfully state such fixation of pay on the basis of the letter dated 29-11-78 is wholly illegal, arbitrary and malafide. The promotion that the appointment of A.T.Ms. as LSGTMs also do not involve higher duties and responsibilities when the pay scales of the Two posts were Rs.380 - 560/- and Rs.425 - 640/- is wholly unjustified.

Contd..

Chinmay Kumari Deb

4.9 That, thereafter the officials effected made representations to the respondents making a grievances against their such pay fixation. However, the respondents did not respond to the representations made by the officials.

4.10 That, the applicants state that the legality and validity and the propriety of the Director General letter dated 29-11-78 was considered by the principal Bench of this Hon'ble Tribunal of India in which the Principal Bench by its Judgment and order dated 06-05-87 allowed the application by rejecting the proposition that appointment of A.T.Ms. as LSGTMs do not involve higher duties and responsibilities. Thereafter some similarly situated officials belonging to the Jurisdiction of the Calcutta Bench of this Hon'ble Tribunal filed an application being O.A. No.439/96 (Sunilendu Choudhury and other - Vs - Union of India and others). By Judgment and order dated 21-11-92, the Hon'ble Calcutta Bench allowed the application and directed the respondents therein to fix pay of the applicants in the post of LSGTMs by applying the principle of F.R. 23-C and to pay all arrears of consequential benefits and increments within a period of 120 days.

A photocopy of the aforesaid Judgment and order dated 21-04-1992 is annexed here to and marked as Annexure - '3'.

(Page- 20)

4.11 That, after the aforesaid Judgment, the Department issued a Circular dated 28-09-92 where by in pursuance of the Judgment the Hon'ble Calcutta Bench, it has been decided to fix pay of A.T.Ms. on their promotion to LSGTMs by applying principle of

Chinmay Kumar Deb

F.R.22-C (NOW F.R.22(i)(a)(i)) and to pay all arrears of consequential benefits and increments. However, the aforesaid Circular made it clear that this benefit will be given in respect of the applicants in the above noted Original Application 439 of 1990 filed before the Central Administrative Tribunal, Calcutta Bench.

A photo copy of the aforesaid Circular dated 28-09-92 is annexed here to and marked as Annexure - '4'. (Page- 3/)

4.12 That, after the aforesaid order the officials submitted several representatives individually claiming the same benefit. However the respondents did not pay any heed to such representations.

4.13 That, thereafter a number of Judgments have been delivered on the same line by different Benches of this Hon'ble Tribunal. some of these are as follows:

<u>Name of the Bench</u>	<u>Application No.</u>	<u>Judgment dated.</u>
Patna Bench	O.A. 39/90	27-08-91
Ernakulam Bench	O.A. 1334/91	01-06-92
- do -	O.A. 1297/91	03-07-92
- do -	O.A. 66/93	15-01-93
- do -	O.A. 43/93	25-02-93

Be it stated here that the Hon'ble Ernakulam Bench in O.A. No. 66/93 has allowed the application on 05-01-93 at the Admission stage itself.

The applicant craves the leave of the Hon'ble Tribunal to produce the copies of the above noted Judgments at the time of Hearing.

Chinmay Kumar Delo -

4.14 That, pursuant to the above noted judgments, the Department has issued orders making the pay fixation as prayed for in this application and all arrear payments and consequential benefits only to six persons who have approached the court.

4.15 That, the applicants respectfully state that All India Telegraph Traffic Employees Union Class-III Assam Circle approach the Hon'ble Tribunal by way of filing O.A. No.134/93 on behalf of 56 who had already been promoted to the post of Telegraph Master from the post of Assistant Telegraph Master. Those applicants were similarly situated with the present applicants. While disposing of the aforesaid O.A. No. 134/93 on 23-09-93, the Hon'ble Tribunal directed the respondent authority to fix the pay of the applicants in the post of LSGTMs by applying the principles of F.R.22(e) with all consequential benefits including arrear salary and increments from the dated of their promotion of the post of LSGTMs within a period of 60 days from the dated of receipt of the copy of the order.

A copy of the aforesaid order dated 23-09-93 is annexed here to and marked as Annexure - '5'.

(Page- 32)

4.16 That, the applicants respectfully states that the Department of Telecommunication, New Delhi, Complied with the directions the Hon'ble Tribunal passed in different benches and the applicants of all the O.As were given the benefits as directed by the Hon'ble Tribunals. However, the benefits were not immediately given to the similarly situated employees. However, Telecom Commission was pleased to grant the benefit of Fixation of pay under F.R.22(e) NOW F.R. -

Contd..

Chinmay Kumar Dolo -

22.1(a)(i) on the promotion from A.T.M to T.M along with consequential benefits by order No.57-32/94/T.2 dated 5th December, 1994.

A copy of the aforesaid order dated 05-12-94 is annexed here to and marked as Annexure - '6'.
(Page- 34).

4.17 That, the applicant respectfully state that despite the order dated 05-12-94 (vide annexure - 6) some similarly situated Telegraph Masters were not given the benefits of fixation of pay under F.R.22(e) NOW F.R.22.1(a)(i) on the promotion from ATM to TM along with consequential benefits for reasons not known to the applicants.

4.18 That, four applicants under All India Traffic Employees Union Class-III, Assam Circle approach this Hon'ble Tribunal by way of filing O.A. No.225/94 praying for the benefit of Fixation of pay under F.R.22(c) NOW F.R 22.1(a)(i) on the promotion from ATM to TM along with consequential benefits. The Hon'ble Tribunal by its order dated 19-12-94 passed in O.A.225/94 directed the respondents to fix the pay of the four applicants in the post of Lower Selection Grade Telegraph Master by applying the principles of F.R.22(c) with all consequential benefits including areas of salaries and increments from the dated of their promotion to the post of Lower Selection Grade Telegraph Master.

A copy of the aforesaid order dated 19-12-94 is annexed here to and marked as Annexure - '7'.
(Page- 35)

Contd..

Chinmay Kumar Deb

4.19 That, the applicants respectfully state that they approach the respondent authority on several occasions for fixation of pay in the light of the several decisions of the Hon'ble Tribunal in as much as they are similarly situated employees.

4.20 That, the applicants respectfully state that much to their chagrin they received an order No.E-3/Fixation/CKD-AP/2000-01 dated 29-07-2000 from the office of the Department of Telecommunication Silchar and with an extract of the letter No.E28/STT/Genl/108 dated 25-07-2000 from the General Manager Telecom, Silchar which stated as under -

"With reference to the above, the cases have been examined in the light of DOT/ND letter No.57-32/94/T2 dated 5th December 1994 and CAT/GH Bench order No.MP 9/94(O)A 134/93 dated 27-01-94 and 441 dated 03-01-94.

The order is very clear. The officials promoted from ATM to TM are entitled to such benefits.

The applicants in your establishment, as referred above were not ATM on regular basis who were promoted to TM under OTBPP scheme. They were officiating in different spells on purely local arrangement, adhoc basis and were not approved by DPC for the Cadre of ATM.

Their substantive Cadre, prior promotion as TM, were TL only and conditions of adhoc promotions have been clearly specified in different orders issued by STT/SC. ASTT(I/C). DTO/SC etc.

As such, they are not eligible to get the pay fixation benefit, as claimed for.

The officials may be intimated accordingly".

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A copy of the aforesaid order dated 29-07-2000 is annexed here to and marked as Annexure - '8'.

(Page- 42)

4.21 That, the applicant respectfully states that on receipt of the aforesaid order dated 29-07-2000 (vide Annexure - 8) they submitted representation before the General Manager B.S.N.L., Silchar SSA, Silchar justifying their eligibility and requesting to reconsider the matter in the light of directions of the Hon'ble Tribunal in as much as they are similarly situated with most of the applicants in various Original Applications.

Copies of the representation submitted by the applicants to the General Manager are annexed here to and marked as Annexure - '9' series.

4.21.i) That the applicants respectfully state that the authority wanted to reject their claim on plea that they were ATM on adhoc basis and were not approved by DPC for the Cadre of ATM. But the fact stands that all the officials covered by the O.A.134/93 in C.A.T. Guwahati, namely Shri A.K. Misra, R.C. Paul, etc (total 56 officials) all were designated as Adhoc ATM, and the Officials involved in O.A.225/94 namely were also termed as Adhoc ATMs. The fact stands that owing to the court cases at various C.A.T. levels on this matter and due to continuous representations from union side for proper placements of status of TMs promoted from ATM cadre, the then all ATMs were being

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Chinmay Kumar Dole

termed as Adhoc. Hence to deprive of the officials from the pay fixation benefits, of F.R.22(a) (i) (erst-while F.R.22(C)) on the plea that the officials were officiating in ATM Cadre on Adhoc basis, does not hold good here. Non-holding of DPC, i.e., Departmental Promotional Committees sitting in time was entirely administrative matters, and the applicants cannot be held responsible or put to loss for that. Apart from that there is also no decision of the Department or of the court stands that if ATMs (of Rs. 380-560) are promoted to Rs. 425-640 scales of TMs which is also the scale of Telegraphist promoted to TM under OTBP scheme are not to be given the fixation benefit under F.R.22(a) (i) (erst-while F.R.22(C)).

4.22 That, the applicants respectfully submits that the respondent authority have already extended the benefit of the Fixation of pay and other consequential benefits to similarly situated employees and as such the applicants are also entitled to those benefits in the light of the directions of the Hon'ble Tribunal in the series of cases.

A copy of the above said promotion order is annexed as annexure - 10, page-56

4.23 That, the instant application has been filed under compelling circumstances praying for extending the benefits of the order dated 23-09-93 passed by this Hon'ble Tribunal in O.A. No. 134/93 in respect of these four employees referred to above whose names were not included inadvertently in the O.A. 134/93.

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Chinmay Kumar Deb

4.24 That, further this application has been filed for the ends of justice and to prevent abuse of process of law. Law is well settled that when some principles have been laid down in a case, same should be made applicable to all the employees similarly circumstances without requiring them to approach the court again. In the instant case the respondents are acting contrary to such a settled law.

5. GROUNDS FOR RELIEF:

5.1. For that, the action of the respondents in not giving the same benefit to all the employees who are similarly situated is violative of the principles laid down under Article 14 and 16 of the Constitution of India.

5.2. For that, the employees representing whose interest this application has been filed are similarly situated with the applicants in the Judgment referred to above and as such, they are entitled to same benefits, as granted to the employees who have approached the Court and not doing so would amount to discrimination.

5.3. For that, those who could not come to the court need not be at a comparative disadvantage to those who rushed to the Court. If they are otherwise similarly situated they are entitled to similar treatment even if they do not approach the Hon'ble Tribunal.

6. DETAILS OF REMEDIES EXHAUSTED:

The applicant declares that the applicant has exhausted the departmental remedy available to it under the relevant rules by filing a representation which are pending disposal. Furthermore, as the matter is very

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Chinmay Keemari Dole

urgent in nature, the applicant has got no other alternative and efficacious remedy except approaching this Hon'ble Tribunal.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN OTHER COURT:

The applicant further declares it has not was filed previously any application, Writ petition or suit regarding the subject matter in respect of which this application is made before any Court or any other authority or any other Bench of this Hon'ble Tribunal nor any such application, Writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances, the applicant prays for the following relieves:

- (i) To fix their pay in the post of Lower Selection Grade Telegraph Master according to F.R.22-C NOW F.R.22. (a) (i).
- (ii) To treat the post of Telegraph Masters as having higher duties and responsibilities.
- (iii) To fix the pay of the persons named in Annexure - 1 in the post of Lower Selection Grade Telegraph Master by treating the revised pay scale of Telegraph Masters Rs.425 - 640/- and by applying the principles of F.R.22-C NOW F.R.22. (a) (i).
- (iv) To extend all consequential benefits and to pay all arrears to them as Lower Selection Grade Telegraph Master.
- (v) That, the Hon'ble Tribunal may be pleased to quash and set aside the order No.E-3/Fixation/CKD-AP/2000-01 dated the 29-07-2000

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(vide Annexure - 8) and direct the respondent authorities to extend all consequential benefits and to pay all arrears to them as Telegraph Master.

(vi) Any other relief or relieves to which the above noted employees are entitled under law and equity.

(vii) Cost of the application.

9. INTERIM ORDER PRAYED FOR:

The applicant does not pay for any interim order but prays that the instant application be disposed of as expeditiously as possible.

10.

11. PARTICULARS OF IPO:

1. I.P.O. No.: - 28E878807
2. DATE : - 9.4.2002
3. PAYABLE AT: - GUWAHATI.

Contd.. VERIFICATION.

VERIFICATION:

I, Sri Chinmoy Kumar Deb, Son of Late Upendra Kr. Deb, aged about 59 years, resident of Shaileasree Lane, Tarapur-7, Silchar-788008, Assam, do hereby solemn verify that the statements made in paragraphs ^{4, 6, 1, 2, 3, 4, 5, 7, 8, 9} are true to my knowledge, ^{13, 17, 19, 8, 23} those made in paragraphs ^{6, 10, 11, 14, 15, 16, 18, 21} are being matters of records are true to my information denied thereof.

And I set my hand on this verification, to-day the⁹th April 2002, at Guwahati.

Chinmoy Kumar Deb,

Deponent.

ANNEXURE: '1'

Sl.No.	Name of the officials/appl- icants	Date of effect of Promotion as TM from A TM	Office of which working	Remarks
1.	C.K. Deb	30-11-1983	D.T.O. Silchar.	
2.	J.C.Das	30-11-1983	D.T.O. Silchar.	
3.	A. Purkayastha.	30-11-1983	D.T.O. Silchar.	
4.	M.C. Paul	30-11-1983	D.T.O. Silchar.	Retired on 30- 06-2001

Certified to be
True Copy.
[Signature]
Advocate.

INDIAN POSTS AND TELEGRAPHS DEPARTMENT
OFFICE OF THE DIRECTOR GENERAL P&T NEW DELHI 110001

No. 213/47/76-STN/PAT

Dt. 24th Nov. 1978

To

All Heads of Telecom. Circles/Telephone Dists.

Sub: Fixation of pay of Assistant Telegraph Masters on their appointment as LSG Telegraph Masters.

Sir,

I am directed to refer to this office letters No. 4-8/74/TE. and 213-4/74-STB-I, dt. 9.8.74, and 7/9-12-74 respectively regarding formation of the cadre of ATMs. The following issues relating to Selection of ATMs, pay regularisation on appointment of ATMs as LSG TMs etc. have been under examination for some time past:

- (i) Consequent on formation of a separate cadre of ATMs, with the pay scale of Rs. 380-560 as recommended by the 3rd Pay Commission vide this office letter No. 4-8/74/TE. dt. 9.8.74 whether the ATMs should be considered for appointment to LSG TMs.
 - (ii) Regulation of pay of ATMs on appointment as LSG TMs.
2. The following decisions have now been taken in consultation with the Ministry of Finance:
- (i) the cadre of ATMs created with effect from 1.1.73 in the scale of Rs. 380-560 under this office letter No. 4-8/74/TE. dt. 9.8.74 will continue as at present. Telegraphists will be promoted as ATMs from among the volunteering Telegraphists as per the existing instructions issued from time to time. The pay of Telegraphists on their promotion to ATMs cadre will be fixed under the provisions of FR. 22-C, treating the appointment as involving higher duties and responsibilities.
 - (ii) 20% LSG TM posts in the pay scale of Rs. 425-640/- will be determined on the basis of the combined strength of ATMs and Telegraphists.
 - (iii) (a) Assistant Telegraph masters would be considered for appointment to the grade of LSG TMs based on their seniority in the gradation list of Telegraphists.
(b) The appointment of ATMs as LSG TMs will be considered as not involving higher duties and responsibilities. Their pay on appointment as LSG TM shall be fixed at the same stage, at which their pay is drawn in ATMs cadre, if there is such a stage in the scale of pay of LSG TMs or at the next higher stage, if there is no such stage. If the pay in the LSG TM grade is fixed at the same stage, the next increment

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Certified to be true copy.

Advocate

Advocate.

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would be granted from the same date on which it would have accrued in the ATMs grade. If however, the pay is fixed at the next higher stage, the next increment should be granted after completion of normal incremental period of 12 months in the grade of LSG TM.

(iv) (a) In respect of those ATMs, who were appointed to LSG TMs from dates subsequent to 1/1/73 without reversion to the Telegraphists cadre and had their pay fixed under FR.22-C with reference to pay drawn in the scale of Rs. 360-540 in contravention of the orders contained in para 7.5 of this office letter No. 15-14/74/TE. dt. 16.6.74 read with letter No. 213-4/74-STB-I, dt. the 7th/9th December, 1974, a review should be made and pay refixed in the light of the orders indicated in sub-para (iii) (b) above, with effect from the date of issue of those orders.

(b) In respect of the ATMs who had been reverted as Telegraphists in terms of the aforesaid orders and simultaneously promoted to LSG TM, pay should be regulated as laid down in sub-para (iii) (b) above.

(c) Overpayments consequent on revision of pay as indicated in sub-para (iv) (a) and (iv) (b) above will first be set off against the arrears of pay and allowances if any, that might become payable to the Govt servant as a result of these orders. The balance of the overpayments upto the date of issue of these orders, shall be treated as waived.

(v) It is possible that some of the Assistant Telegraph Masters who had opted for the General line of Promotion in terms of this office letter No. 213-4/74-STB-I, dt. 7/9 December 1974 might have been actually reverted to Telegraphists grade based on the option exercised in the light of the aforesaid orders and are working at present as TAs. In such cases, the officials may be considered for re-promotion to ATMs grade by reverting the juniormost ATMs, if need be, and pay fixed under FR.22-C read with proviso thereunder. The intervening period from the date of reversion to TL Grade till re-promotion to the ATMs grade will, however, be not allowed to count for the purpose of increment in ATMs grade.

Advocate

3. The orders shall have effect from the date of issue.

4. This issues with the concurrence of P&T Finance vide their U.O. No. 7155A/FA-I/78 dt, the 22.11.78.

Yours faithfully,

Sd/- (R. GOPALAKRISHNAN)
ASSTT. DIRECTOR GENERAL (TE)

Copy to :
1 - S.....

Sd/-
ASSTT. DIRECTOR GENERAL (TE)

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. 439 of 1990

Present : Hon'ble Mr. P.K. Mallick, Administrative Member
Hon'ble Mr. Maharaj Din, Judicial Member.

SUNILKUNDU CHOUDHURY & ORS

- Vs -

UNION OF INDIA & ORS.

For applicants : Mr. Mihir Chakraborty, counsel
Ms. M. Benerjee, counsel

For the respondents: Mr. D.N. Das, Sr. Standing
Counsel

Ms. Uma Bhattacharjee Addl. SC

Heard on 5.3.92

- Judgment on 21.4.1992

JUDGEMENT

P.K. Mallick, Member 2(A)

In this original application, the applicants have
prayed for a direction on the respondents for the following
reliefs :

(a) To fix their pay in the posts of the Lower Selection Grade Telegraph Masters according to F.R. 22(c).

(b) To treat the posts of Assistant Telegraph Masters as having higher duties and responsibilities ; and

(c) To fix the pay of the applicants in the posts of L.S. G. Telegraph Masters by treating the revised pay scale of Assistant Telegraph Masters Rs. 380-560/- and by applying the principles of F.R. 22(c) and to pay all arrears and consequential benefits to them as L.S.G. Telegraph Masters.

2. The facts of the case may be briefly stated. The applicants were appointed as Telegraphists in the Central

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certified to be true copy.

Advocate

Telegraph Office, Calcutta on various dates and were promoted to the posts of Assistant Telegraph Masters subsequently.

3. On the basis of the recommendations of the 3rd Pay Commission, the pay scale of Telegraphists were revised to Rs. 260-480/- and that of Assistant Telegraph Masters to 380-560/-.

4. It is the contention of the applicants that as a result of their promotion from the post of Telegraphists to that of Assistant Telegraph Masters, they had to assume higher responsibilities as per their promotion as before their promotion they had to operate the telegraph machines, but after their promotion as Assistant Telegraph Masters they had to supervise the machines but not operate them.

5. They have stated that on their promotion to the post of Assistant Telegraph Masters, their pay was fixed by following P.R. 22-C in the scale of Rs. 260-480/- by relying on D.G. P&T's letter dated 29.11.78 (Annexure-C). They have characterised such fixation of pay on the basis of the letter dated 29.11.78 as wholly illegal arbitrary and mala fide.

6. It would be useful to reproduce the following extracts from DGP&T's letter dated 29.11.78 :

*.....Telegraphists will be promoted as Assistant Telegraph Masters from among the volunteering Telegraphists as per existing instruction issued from time to time. The pay of the Telegraphists on their promotion to ATMs cadre will be fixed under the provisions of P.R. 22-C treating the appointment as involving higher duties and responsibilities
.....The appointment of ATMs as LSG ATMs will

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be considered as not involving higher duties and responsibilities. Their pay on appointment as LSG TMs shall be fixed at the same stage, at which their pay is drawn in ATMs cadre if there is such a stage in the scale of pay of LSG TMs or at the next higher stage, if there is no such stage....."

7. The applicants have further stated that the legality validity and/or propriety of the D.G.P&T's letter dated 29.11.78 was considered by the Principal Bench of this Tribunal in Sri Tilak Raj Khanna V. Union of India (Annexure-B), which the Principal Bench, by its judgment and order dated 6.5.87 allowed the application by rejecting the proposition that the appointment of Assistant Telegraph Masters as L.S.G. Telegraph Masters did not involve higher duties and responsibilities when the pay scales of the two posts were Rs. 380-560/- and Rs. 425-640/- respectively.

8. They have also relied on two other judgments of this Tribunal, viz. N. Chandra Sekhar & Ors. V. Union of India of the Hyderabad Bench (Annexure-B) and Nimal Gopal Ghosal & Anr. V. Union of India (Annexure-B/1) to the Supplementary Application.

9. It is the contention of the applicants that since they are similarly circumstances with the applicants of the three aforesaid cases, they are entitled to be benefits of the principles laid down in these judgments, that the authorities should have extended such benefits to them also and that for oblique reasons and on extraneous consideration they have refused to do so. They have urged that denial of the benefit of these judgments to them would be a gross denial of equal opportunity and violative of the principles of equality enunciated under Articles 14 and 16 of the Constitution.

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Ind. ed.
Se.
Associate

10. Heard Mr. Mihir Chakraborty, counsel leading Ms. M. Banerjee, counsel for the applicants and Mr. D.N. Das, Sr. Standing Counsel leading Ms. Uma Bhattacharyya, Addl. Standing Counsel for the respondents.

11. Mr. Chakraborty has summarised the facts of the case as stated above and has submitted that since the applicants are similarly circumstanced with the applicants of the three judgments of the Principal Bench, Hyderabad Bench and the Patna Bench which have been annexed as Annexures 'D' and 'E' to the original application and Annexure 'D1' to the Supplementary Application respectively, same benefits must be granted to them. In Shri Tilak Raj Khanna V. Union of India, reported in SLJ 1987(2) CAT 491, the applicant had challenged two orders dated 15.8.77, and 12.9.77 regarding fixation of pay of ATMs on promotion as LSG Telegraph Masters (LSGTM). The applicant was appointed as a Telegraphist on 27.4.54 and thereafter as Teleprinter Supervisor (later on redesignated as ATM) on 29.11.66 with same allowance as borne on the cadre of Telegraphists, but in addition a special pay of Rs. 30/- was given to him. From 1.1.73, the scale of Telegraphists was revised to Rs. 260-480/- and that of ATM to Rs. 380-560/-. Prior to 1.1.73, the applicant was getting the basic pay of Rs. 240/- in the scale of Telegraphists viz. Rs. 100-240/- along with the special pay of Rs. 30/-.

12. The applicant was promoted as LSG TM w.e.f. 1.6.75. At that time his pay as ATM in the scale of Rs. 380-560/- was Rs. 540/- and accordingly, his pay as LSGTM was fixed at Rs. 580/- in the scale of Rs. 425-640/-. He earned two increment of Rs. 20 each raising his pay to Rs. 620/- w.e.f. 1.6.77.

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13. Subsequently in pursuance of DGP&T's letters dated 16.6.74 and 7.10.74 the pay of the applicant on promotion as LSGTM on 1.6.75 was refixed with reference to his pay as Telegraphists which was Rs.420/- in the scale of Rs.260-480/-. After giving him one notional increment in the grade of Telegraphist, his pay as LSGTM was fixed at Rs.500/- w.e.f. 1.6.75, at Rs.515 w.e.f. from 1.6.76 and at Rs.530 w.e.f. from 1.6.77. Such pay fixation was challenged by him.

14. The Principal Bench of this Tribunal took into consideration the facts of the case and DGP&T's letter dated 29.11.78 (cf. para 6 of this judgment) and held as under :

"5. We are unable to agree with the proposition that the appointment of Assistant Telegraph Master as LSG Telegraph Master did not involve higher duties and responsibilities when the pay scales of the two posts were Rs. 390-560/- and Rs.425-640 respectively."

It allowed the application with the direction that their pay fixation as already done in the case of the applicant viz. Rs. 530/- w.e.f. 1.6.75, Rs.600 w.e.f.1.6.76 and Rs.620 w.e.f. 1.6.77 will stand and he will be entitled to subsequent increments on that basis. There was a further direction that he shall be paid pay and shall also be entitled to consequential pensionary benefits on the said basis.

15. In N. Chandrasekhar and others v. Union of India and others (Annexure 'E'), the applicants were appointed as Telegraphists in the pay scale of Rs.260-480/-. Thereafter,

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they were selected and appointed as ATMs in the pay scale of Rs. 380-560/- after successful completion of the prescribed period of training. Subsequently, they were promoted to the posts of LSGTMs in the pay scale of Rs. 425-640/- and it was stated in the said promotion order that it involved higher duties and responsibilities. Their grievance was that despite this stipulation their pay in the scale of Rs. 425-640/- was fixed at the same stage on which it was drawn as ATMs in the pay scale of Rs. 380/-560/- without complying with provisions of FR 22(c).

16. They specifically pleaded that the facts of their case was similar to that of Tilak Raj Khanna's case and that they were entitled to the same benefits and reliefs as granted in that judgment.

17. On consideration of the facts and circumstances of the case, the Hyderabad Bench of this Tribunal held that the judgment in Tilak Raj Khanna case was applicable to the instant ~~case~~ application and allowed it. The impugned order dated 10.11.88 was quashed and the respondents were directed to extend the benefit of fixation of pay of the applicant under FR.22(c) on their promotion to the cadre of LSGTMs in the pay scale of Rs. 425-640/- from the posts of ATM.

18. In this case the respondents did not file any reply.

19. In *Nimari Gopal Ghosal V. Union of India* (OA 390/90 dated 29.7.91 and unreported), the judgment being annexed as Annexure 'B1' to the supplementary application, both the applicants had entered the Telecommunication Department as Telegraphists. They were duly promoted to the grade of ATMs and

and subsequently as LSGTMs. While fixing their pay on promotion as LSGTMs, the benefit of FR 22(C) was not given to them. On coming to know of the decision of the Principal Bench mentioned above, they filed the application with a prayer that the respondents be directed to fix their pay in cadre of LSGTM giving benefit of FR 22(C) with all other consequential benefits.

20. A reply was filed by the respondents urging that such benefit cannot be given to them because the post of ATM and LSGTM carries similar and equal responsibilities and that the promotion from ATM to LSGTM does not involve duties of higher responsibilities.

21. After hearing both the parties, the Patna Bench of this Tribunal held that the issue raised in the application was no longer res-integra. It referred to the two judgments of the Principal Bench and Hyderabad Bench mentioned above and had no hesitation in holding that the post of LSGTM involved duties of higher responsibilities than those of ATM and that accordingly, on promotion from ATMs to LSGTMs the applicants were entitled to have their pay fixed in the promoted grade under FR 22(C).

22. The application was allowed and the respondents were directed to fix the pay of the applicants on their promotion to the grade of LSGTMs under FR 22(C) along with consequential benefits and increments.

23. The application has been opposed by Mr. Das, who has submitted that the case is hopelessly barred by limitation as while the promotions took place in 1981-83,

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the present application was filed after considerable delay on 13.4.90 as the applicants were awaiting the result of similar cases filed in other Benches of this Tribunal.

24. His second point is that in the promotion orders annexed by the applicant at pages 42 to 55 of the application, there is a clear stipulation that the pay of ATMs on appointment of the higher grade of TMs will be fixed in the manner as indicated in DGP&T's letter dated 29.11.78 (their appointments being treated as not involving higher responsibilities). He has asserted that having accepted this condition as far back in 1981-83, they cannot challenge the same in 1990.

25. His third point is that DGP&T's letter dated 29.11.78 (cf. para 6 of this judgment) makes it very clear that the applicants got the promotions voluntarily after accepting the conditionalities with their eyes open and that they cannot reagitate the matter so belatedly.

26. As regards the judgment of the Principal Bench, he has stated that it would appear from the said judgment that the applicant in that case was promoted as LSGTM on 1.6.75, when DGP&T's letter dated 29.11.78 had not yet been light of the day, and that accordingly, that judgment cannot help the case of the present applicants, who were promoted in 1981-83 and in whose case the aforesaid letter dated 29.11.78 is applicable.

27. He has, therefore, urged that the Hyderabad Bench judgment was delivered ex parte and that the entire facts were not placed before the Tribunal.

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Advocate

28. His final submission is that the latest judgment of the Patna Bench did not consider DGP&T's letter dated 29.11.78 (Annexure 'C').

29. In his reply, Mr. Chakraborty has stated that a perusal, of the judgment of the Principal Bench would clearly indicate that DGP&T's letter dated 29.11.78 was duly considered towards the end of para 4 of the said judgment. He has also submitted that the Hyderabad Bench judgment followed the judgment of the Principal Bench in Tilak Raj Khanna case. His further submission is that the decision of the Principal Bench and the Hyderabad Bench were followed by the Patna Bench. He has urged that thus there is no doubt that in all these three judgments a direction has been given to the Department to fix the pay of ATMs on their promotions to the grade of LSGTM under FR 22(C) with consequential benefits, which is the prayer in the instant application. He has concluded his reply with the submission that discrimination has been pleaded by the applicants at sub-para (2) of para 4 of the application.

30. After taking into consideration the materials on record and the submission of the two counsel, we are of the view that this application has to succeed. It is established from the records that the present applicants are similarly circumstances with the applicants in the three cases relied upon by the applicants viz. those disposed of by the Principal Bench, Hyderabad Bench and Patna Bench. In all these cases, the Tribunal held that on promotion as LSGTMs from the post of ATMs, pay has to be fixed by giving the

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Advocate

benefits of FR 22(C) with other consequential benefits. Hence, there is no reason why the Government, being the model employer, should not give the same benefit to similarly circumstanced employees.

31. It has been the consistent view of this Tribunal that when a decision has been given by a Tribunal or a Court in favour of some of the employees, and has thereafter been implemented, the same benefit has to be extended to similarly circumstanced employees and that no doing so would amount to discrimination. Some of these cases are listed below :

(i) Ordnance Clothing Factory Workers' Union Vs. Secretary, MOD.....ATR 1990(1) CAT 22.

(ii) R. Sundra Raman V. Union of IndiaATR 1990(1) CAT 136.

(iii) R. Sambandan v. CAG1990(13) ATC 660

(iv) Nripendra Ch. Dey v. Union of India.....1990(13) STC 344.

(v) Smt. Urmila Yadav v. Union of India ATR 1988(2) CAT 519.

32. We also feel that it would be appropriate to reproduce the following from the judgment of the Supreme Court in Inderpal Yadav v. Union of India, reported in 1985 SCC (L&S) at page 526 :-

".....Therefore, those who could not come to the Court need not be at a comparative disadvantage to those who ~~xx~~ rushed to in here. If they are otherwise similarly situated they are entitled to similar treatment, if not by any one else at the hands of this Court."

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33. Since the applicants are seeking the benefits of judgments in respect of similarly situated employees, there cannot be any question of limitation as denial of such benefit would be clearly discriminatory. It was held by this Tribunal in R.D. Gupta V. Union of India, reported in 1990(1) ATJ 212 that when applicants are seeking the benefits of similar judgment in another case, the bar of limitation would not apply.

34. In view of what has been stated above, we allow this application and direct the respondents to fix the pay of the applicants in the post of LSGMs by applying the principle of FR 22(C) and to pay all arrears of consequential benefits and increments. This exercise must be completed and the arrears paid to the applicants within 120 days from the date of communication of this order. There will be no order as to costs.

Sd/- Majaraj Dixi
MEMBER (J)

Sd/- (P.K. Mallick)
MEMBER(A)

....

ed.
Advocate

No. 22-11-92-TE-II
Government of India
Ministry of Communication,
Department of Telecom.

910-Sanchar Bhavan,
20, Ashok Road,
New Delhi - 110 001.

To

All Heads of Telecom Circles/
Metro Districts/Maintenance Regions/
Project Circles and other Administrative Units.

Sub: Fixation of Pay under F.R. 22(C) on promotion from
ATM to T.M. - Implementation of CAT, Judgment -
O.A. No. 439 of 1990, filed in CA CAT Bench.

In pursuance of the judgment of Hon'ble CAT, Cal-
cutta dated 21.4.1992 regarding fixation of pay of Asstt.
Telegraph Masters on their promotion to LSG TMs I am
directed to say that it has been decided to fix the pay
of Assistant Telegraph Masters on their promotion to
LSG TMs by applying the principle of F.R. 22(C) (old)
~~subordinate~~ now F.R. 22(I) (a) (1) and to pay all arrears
of consequential benefits and increments in respect
of applicants only. Necessary action may be taken accor-
dingly under intimation to this office.

2. This issues with the concurrence of Finance Advice -
I vide their U.O. No. 2545/92/F-I dated 16.9.92.

83/- (JUDH PRAKASH)
ASSTT. DIRECTOR GENERAL (TE)

No. 22-11/92-TE-II dated 28th Sept, '92.

1. Chairman, Telecom Commission, New Delhi
2.

.....

13. Guard File.

84/- (N.E. BEHERA)
SECTION OFFICER (TE-II).

...

Carbon to be true copy.

Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI-5.

O.A. 134/93.

All India Telegraph Traffic
Employees Union, Class-III
Assam Circle. ... Applicant.

- VS -

Union of India & Ors. ... Respondents.

PRESENT

The Hon'ble Justice Shri S. Haque, Vice Chairman,
The Hon'ble Shri G.L. SANGLYING, MEMBER (ADMN.)

For the applicant - Mr. B.K. Sharma,
Mr. M.K. Choudhury,
Mr. Satyen Sarma.

For the Respondents : Mr. G. Sarma, Addl. C.G.S.C.

23.9.93

Learned counsel Mr. B.K. Sharma, submits on behalf of 56 applicants who are holding post of LSGTM. They are represented by the Vice President Shri S.C. Chanda of All India Telegraph Traffic Employees Union, Class-III, Assam Circle. Also heard learned Sr. C.G.S.C. Mr. S. Ali.

The applicants have been promoted to LSGTM and claim entitlement of the pay fixation under FR 22(C). Mr. Sarma submits for disposal of this application granting relief in conformity with the judgment delivered by the Principal Bench and other Benches for employees similarly situated on promotion from ATM to LSGTM. We have perused the following previous judgments - R.W.D. 2-336/85 (C.T.-703/77) Principal Bench ; (2) O.A. 439/90 of Calcutta Bench ; (3) O.A. 39/90 of Patna Bench ; (4) O.A. 1134/91, 1297/91, 66/93 and O.A. 43/93 of Ernakulam Bench. It was uniformly held that the post of LSGTM involved duties of higher responsibilities than those of ATM and that accordingly on promotion from ATM to LSGTM the promotees are entitled to have their pay fixed in the promoted grade under FR 22(C). We fully agree with the said finding. The applicants in the instant case are similarly situated and entitled to similar benefits.

Advocate

Contd...P/28.

Certified to be true copy.
Advocate

Accordingly this application is allowed and respondents are directed to fix the pay of the applicants in the post of LSGTM by applying the principles of PR 22(C) with all consequential benefits * including arrear salary and increments from the date of their promotion to the post of LSGTM within a period of 60 days from the date of receipt copy of this order.

This application is disposed of with the above order and direction. Inform all concerned.

Sd/- S. Haque
VICE CHAIRMAN

Sd/- G.L. Sanglyine
MEMBER (ADMN.)

...

30.
Advocate.

34 - Annexure - 2 6 49

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
DAN BHAVAN, PARLIAMENT BUILDING
NEW DELHI-110 001

NO. 57-32/94/T.2

Dated 5th Dec., 1994.

FR Dec, 1994

To

All Heads of Telecom. Circles,
Metro Distts./Maintenance Regions/Project
Circles and other Administrative units.

Subj: Fixation of pay under FR 22(C) on promotion
from ATM to TM to all similarly placed employees.

Sir,

In pursuance of numerous judgments pronounced by various benches of CAT regarding fixation of pay of ATMs on their promotion to LSGTM, which were implemented to applicants only. The matter was examined in consultation with Ministry of Finance, Department of Personnel for extending the same to similarly situated employees.

2- Telecom. Commission is pleased to grant the benefit of fixation of pay under FR 22(C) (now FR. 22.1(a)(1)), on the promotion from ATM to TM to all similarly situated employees alongwith consequential benefits.

The pay & Allowances may be drawn accordingly from the date of their actual promotion.

This issue with the concurrence of Telecom. Finance vide their O.O.No.34-26/94/PA-2. dated 22.11.94.

Yours faithfully,

(B.N.UPADHYAYA)
Director(TSC)

... 2/..

certified to be true copy:

Advocate.

O.A. 225/94

All India Telegraph Traffic
Employees Union, Class-III,
Assam Circle.

... Applicants

-VS-

Union of India & Ors.

... Respondents

P R E S E N T

The HON'BLE JUSTICE SHRI M.G. CHAUDHARI, VICE-CHAIRMAN.

For the Applicants ... Mr. B.K. Sharma,
Mr. M.K. Choudhury,
Mr. S. Sarma.

For the Respondents ... Mr. G. Sarma, Addl. C.G.S.C.

OFFICE NOTE

DATE

COURT ORDER

19.12.94

Mr. B K Sharma for the applicant.
Mr. G Sarma, Addl. C.G.S.C. for the
respondents.

Notice before admission was issued to
the respondents to show cause as to
why the application should not be
admitted. No show cause reply has
been filed but Mr. G. Sarma the learned
C.G.S.C. who appears for the respondents
states that relief has already been
granted to the applicants as prayed
and the application would not survive.
However, he is unable to produce the
concerned notification. In the circum-
stances as will be pointed out below
only a formal order is required to be
passed in this application. It is not
therefore necessary to admit the
application for the purpose of further
hearing and hence it is being disposed
of at the admission stage.

By this application the All India
Telegraph Traffic Employees Union
Class-III prays that the same benefit
granted at the instance of the Union
to the applicants in O.A. 134/93
decided on 23.9.93 be extended to the
4 members of the Union mentioned at
Annexure 1 to the application. Mr.
Sharma states that by mistake the
word Late has been typed before the
name of the fourth person mentioned in
the list and the error is regretted.

By the order in O.A. 134/93 the
respondents were directed to fix the
pay of the members of the Union mention-
ed in that case in the post of Lower



Certified to be true copy.

Advocate.

- 36 -

19.12.94 Selection Grade Telegraph Master by applying the principle of F.R. 22(C) with all consequential benefits including arrears of salary and increments from the date of their promotion to the post of Lower Selection Grade Telegraph Master.

The applicant avers in para 4.19 of the application that the respondents have expressed their inability to extend the benefit of the order in O.A. 134/93 to the 4 persons whose case is represented in the instant application in the absence of their names being specifically incorporated in that order.

It baffles me as to how the respondents could refuse to extend similar benefit to the persons at Annexure 1 in the present application, as was directed to be extended by this Tribunal to the persons whose names were included in O.A. 134/93 when the persons mentioned in Annexure 1 to the present application are similarly situated and would be eligible to be given benefit on the self-same grounds. It is stated in para 4.20 of the application that the names of the persons mentioned at Annexure 1 had remained to be included in the list of persons in O.A. 134/93 due to inadvertence. It is submitted in para 4.21 of the application that when some principles are laid down in a case the same should be made applicable to all the employees similarly circumstanced without requiring them to approach the Court again.

lice

OFFICE ORDER

DATE

COURT'S ORDER

19.12.94

No written statement has been filed by the respondents. Mr. G. Sarma, the learned Addl. C.C.S.C. stated today that an officer from the office of the respondents one Mr. Rabha had come to the Tribunal in the morning and had shown a notification to him issued by the Government extending the benefit to persons mentioned at Annexure 1 to the application and therefore the application would not survive. We are however sorry to note that the said officer has not chosen to appear at 02-30 P.M. when the matter was fixed nor had left the copy of the notification with the Addl. C.C.S.C. or the Court Officer. It is not therefore available for our reference. This attitude of the concerned officer deserves to be outright deprecated. Surely he cannot expect the Tribunal to dance to his tune. The respondent no. 3 is directed to make enquiry in this respect and take proper action against the said officer and report the same to the Tribunal. If proper explanation is not offered then the Tribunal may be compelled to take further action as it may deem necessary in the matter so as to prevent recurrence of such casual attitude of officers towards the matters in the Tribunal.

It is really astounding that despite the fact that not only in the order in O.A. 134/93 but in several other judgements mentioned in that order also same view was taken and even so the respondents had compelled the Union to file this application for relief on the ground that the names of the persons mentioned in Annexure 1



19.12.94 were not included in the list in O.A. 134/93, if that is true. It is not disputed that the persons presently concerned were eligible for being extended the benefit as directed under the order in O.A. 134/93. The respondents are expected to abide by the ratio of a decision of the Tribunal on the question decided and ~~the~~ extend the benefit thereof to similarly circumstanced personnel without requiring everyone to rush to the Court or Tribunal. By such attitude the respondents would be only adding to the litigation which they are expected to discourage. Had the notification stated to be issued been produced then it would not have been necessary to give this judgement. However, as it is not made available following order is passed :

The respondents are directed to fix the pay of the 4 employees mentioned in Annexure 1 in the instant application in the post of Lower Selection Grade Telegraph Master by applying the principles of F.R. 22(C) with all consequential benefits including arrears of salaries and increments from the date of their promotion to the post of Lower Selection Grade Telegraph Master.

If the same has not so far been done then it shall be done within a period of 60 days from the date of receipt of copy of this order.

The application is accordingly allowed. However there will be no order as to costs. →

ccm: →

hicc

OFFICE NOTE

DATE

COURT'S ORDER

19.12.94 A copy of this order be sent to the respondent no. 3 for bringing to his attention - the observations made in this order in respect of conduct of his officer.

Registered with A/D

Sd/- VICE CHAIRMAN

Page No. : 562

Date : 31/1/95

Copy for information & necessary action to :

- (1) Shri S.C. Chanda, Vice President, All India Telegraph Traffic Employees Union, Class-III.
- (2) The Secretary, Govt. of India, Ministry of Communication, New Delhi.
- (3) The Director General, Telecommunication, New Delhi - 1.
- (4) The Chief General Manager, Telecommunication, Assam Circle, Guwahati-7.
- (5) The Chief General Manager, Telecommunications, N.E. Circle, Shillong.



SECTION OFFICER (JT)

LIST OF PERSONS REPRESENTING WHOSE
INTEREST THE APPLICATION HAS BEEN MADE

Sl. No. Name	Date of effect of promotion as TM from AM	Office in which working/last worked	Remarks
1. Mrs. B. Bhattacha- rjee.	21.5.82	DIO, Karimganj	Retired
2. Shri N.C. Chakra- borty	30.11.83	-do-	-do-
3. Shri J.N. Baruah	30.11.83	Joihat	Retired
4. Late Anu Borthakur S/o Late T. Borthakur	30.11.83	-do-	Retired

...

-42- Annexure - 8
45

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE JUNIOR TELECOM OFFICER, TRAFFIC I/C,
DTO SILCHAR.

No. E-3/Fixation/CKD-AP/2000-01 dated the 29th July/ 2000.

To,

1. Sri. 1. J.C.Das, CTM DTO Silchar.
2. Sri M.C.Paul. DTO Silchar.
3. Sri C.K.Dev, TMT DTO Silchar.
4. Sri A.Purkayastha, TMT DTO Silchar.

Sub:-

Fixation of pay from Adhoc-ATM to TM LSG(OTEP)

An extract of the letter No. E-28/STT/Genl/108 dated 25-07-2000 from the General Manager Telecom Silchar received under ~~letter No.~~ S.D.E. Traffic, Silchar letter No. EST-1/FIXN/2000-01 dated the 26th July/2000 is appended herewith for favour of your information.

[Signature]
29/7/2000
Junior Telecom Officer (T)
I/C DTO Silchar.

EXTRACT OF THE LETTER CITED ABOVE.

Ref:- Your letter No. EST-1/FIXN/PAY/2000 dated 17.01.2000 and even dated 16.3.2000 and 16.03.2000.

"With reference to the above, the cases have been examined in the light of DOT/MD letter No.57-32/94/T2 dated 5th Dec. 1994 and CAT/CH Bench order No. MP 9/94 (O)A 134/93 dated 27.01.94 and 441 dtd.03.01.94.

The order is very clear. The officials promoted from TM are entitled to such benefits.

The applicants in your establishment, as referred above, were not ATM on regular basis who were promoted to TM under OTEP scheme. They were officiating in different spells on purely local arrangement, adhoc basis and were not approved by DPC for the cadre of ATM.

Their substantive cadre, prior to promotion as TM, were TL only and conditions of adhoc promotions have been clearly specified in different orders issued by STT/SC, ASTT(I/C), DTO/SC etc.

As such, they are not eligible to get the pay-fixation benefit, as claimed for.

The officials may be intimated accordingly.

Sd/- (I.R.Paul)
Divisional Engineer (P&A)
O/o the GWTelcom, Silchar.

[Signature]
31/7/2000

Certified to be true copy.
Advocate.

for Mr. J. K. Das (Off)
Incharge
Departmental Telegram Unit
The General Manager
BSNL, Silchar SSA, Silchar.

Annexure - 9 Ser. 2
K D & K

(Through proper channel) Dated Silchar the 7th Nov 2001

Sub : Prayer for fixation of pay while promoting to TM from ATM

Ref : GM/Silchar No E-3/Fixation/CKD-AP/2000-01 dtd 29 July 2000

Sir,

Reference to the above I beg most respectfully to state that I applied to yo-u for granting me the benefit of fixation of pay in the light of DOT/ND letter No 57-32/94/T2 dtd 5th Dec 1994 and CAT/GH Bench Order No MP 9/94(0) A 134/93 dtd 27.01.94 and 441 dtd 03.01.94. But unfortunately for me your honour did not find me eligible to get the benefit as per your letter in reference.

In this connection I like to mention here that almost all the ATMs in the Circle, though some of them had been promoted to the post of ATMs under purely adhoc basis, got the same benefit as granted by the honourable CAT/GH vide the judgement cited above. I further mention some name of such ad-hoc ATMs who got the fixation benefit at the time of their promotion to TM. They are Smt. Leela Chakraborty, Sr. TM. . Sri D.K. Choudhury retd. Sr. TM; both of CTO Agartala, Sri R.C. Paul, retd Sr. TM. CT Guwahati and Sri N.C. Chakraborty, retd Sr. TM DTO/ Karimganj. This is fact that I had worked as ATM in different spells as you have mentioned in your letter in reference. But later I was in continuous service as ATM till my promotion to TM w.e.f.....01.03.1982. As such the conditions of ad-hoc promotions in respect of other ATMs, whose names have been mentioned earlier, were not considered as demerits for granting the fixation benefits by the Honourable CAT/GH. And on the basis of that judgement DOT issued the order as cited above to grant the same benefit to all the similarly situated officials.

After receiving your above mentioned letter I prayed to the OGMT/GH through proper channel and subsequently I was informed by the Circle Secretary of my Union that the matter has been sent back to you with a request to examine the issue again as shown in Item No 11 of the minutes of their meeting with OGMT held on 13.8.01.

With all this, I again pray to your kindself to reconsider the matter most sympathetically so that I am not deprived of the benefit which was granted to my similarly situated colleagues by the Hon'ble Court and also by the Department. I shall remain ever grateful to you for this deed of kindness.

With regard.

Faithfully yours,

Chinnoy Kumar Deb
(C.K.D.)

Sr. TM.

D. T. O. Silchar.

certified to be true copy.

Advocate

59

courts all over India. The courts including CAT Guwahati Bench pronounced their judgement in favour of the ATMs and granted fixation benefit of one increment from the date of their merger with the cadre of LSG TM. But such benefit was limited only to the petitioners. In Assam and N.E. Circles also as many as fifty such ATMs got the said fixation benefit. But there were some left out ATMs who get the scope of approaching the court of law, on their demand for such benefit the department issued a common order vide DOT NO. 57-32/94/T2 Dated 5th Dec/94 in which the same fixation benefit was granted to all similarity situated ATMs.

That Sir, as soon as I learnt about the contents of this latest Department order I submitted my prayer to the concerned authority. But after a long period the SSA authority of Silchar has been very kind to intimate me that I am not eligible to get such fixation benefit since my promotion was on adhoc basis and was not confirmed subsequently through any DPC. It has further been mentioned there in the said letter that if these conditions were fulfilled I might be eligible for the same.

That Sir, many ATMs who got such fixation benefit had been promoted on adhoc and temporary basis and had never been regularised in the Cadre through any subsequent DPC and they continued to work in the same cadre till their merger with the cadre of LSG TM in the OTBP scheme. Sri N.C. Chakraborty ATM, D.T.O. Karimganj in Assam Circle and Smti. Lila Chakraborty, A.T.M. Sri D.K. Choudhury, ATM both of C.T.O. Agartala in N.E. circle, Sri S.K. Choudhury, T.K. Saha, A.K. Mishra, B.M. Purkayastha, Mrs. Reba Roy W/O Lt. Benoy Roy of C.T.O., Guwahati are those who got such benefit and to the best of knowledge my position is very similarly situated with them. Being placed at the similarly situated position, I can not understand why the same benefit has been denied in my case while the order cited above ensures my eligibility for such benefit.

Contd....P/3

To

The Chief General Manager,
Telecom Assam Circle,
Ulubari, Guwahati-781007.

(Through proper channel).

Sub:- Prayer for fixation benefit following
ATM- TM merger in OTBP scheme.

Ref:- GMT/Silchar No. E-28/STT/Genl/108
dated 25.07.2000.

Sir,

Reference to the above wherein a decision has been given by the GMT Silchar SSA Silchar on my prayer dated 09/03/2000 for the subject mentioned above, most humbly and respectfully I submit the following appeal before your kindself for favour of your sympathetic action and prayer justice.

That Sir, I had been serving as ATM against a regular post since 01/03/1982 at D.T.O., Silchar vide STT Silchar order No. E-5/ATM/81-82 dated at Silchar the 1st March/82 and continued to work in the same post till merger of both the Cadres of ATM and LSGIM under OTBP scheme which was conferred upon me on 30.11.83. Before my promotion to the cadre of ATM I was trained by the Department according to the system and norms laid down in the order of the then G.M.T N.E.Circle vide letter No.STB/ATM-2/T/CH.II/L dated 12.4.81. After completion of the said training for A.T.M. I was appointed at D.T.O. Silchar as ATM since 01/03/1982 against a regular post on adhoc basis.

That Sir, consequent upon the implementation of OTBP scheme the officials in the lower cadre i.e. Telegraphist in the pay scale of Rs. 260-480/- got the higher scale of Rs.425/- 640/- at par with the scale of LSG TM. But ATM in the higher scale of Rs.380/-to 560/- could not agree to their merger with the LSG TMS in the same scale without any fixation benefit and accordingly they filed suits against this discrimination in many

Contd...P/2.

- 3 -

In this connection I like to inform you that Sir, an order was issued in our favour by SDE(TFC) vide his office letter No. EST-1/FIXN/PAY/99-2000 Dated at Silchar the 22nd November, 1999 addressed to the Asstt. L/C D.T.O., Silchar (Copy enclosed) but due to minor mistake in the fixation memo i.e. one line omitted (Rs. 425-640), the said order sent back to SDE (TFC) office for correction. After necessary correction the said memo was sent to A.O.G.M. Office for approval etc. ultimately the same was rejected by G.M. office.

With all this I humbly seek your kind consideration and proper justice so that an ordinary employee like me is not deprived of the monetary benefit granted by the Department. I shall remain ever grateful to your gracious -self for this deed of kindness.

With regards.

Yours faithfully,

Dated at Silchar,

01- 9 - 2000.

Enclosures:- four.

Copy to:-

1. C.G.M.T. Guwahati (Advanced copy)
2. Sri M.R. Das, Circle Secretary, T-III C.T.O., Guwahati.

C.K. Deb
(C. K. DEB)
T.M.T, D.T.O. Silchar

@@@@@

D.T.O. Sildar

7/11/01
Telcom Officer (T)
Incharge
B. O. Silchar

4B
A Purokayastha
62
The General Manager,
BSNL, Silchar SSA
Silchar.
(Through proper channel)

Dtdat Silchar, the 7th Nov/01

Sub:- Prayer for fixation of pay while promoting to ~~tm~~
TM from ATM.

Ref:- GM/Silchar no. E-3/Fixation/CKD-AP/2000-01 dtd the
29th July/2000.

Sir,

Reference to the above I beg most respectfully to state ~~th~~
that I applied to you for granting me the benefit of fixation
of pay in the light of DOT/ND Letter No. 57-32/94/T2 dtd ~~5th~~
5th Dec/1994 and CAT/GH Bench order no. MP 9/94(O)A 134/93
dtd 27.01.94 and 441 dtd 03.01.94. But unfortunately for me
your honour did not find me eligible to get the benefit as
per your letter in reference.

In this connection I like to mention here that almost all
the ATMs in the Circle, though some of them had been promoted
to the post of ATMs under purely adhoc basis, got the same
benefit as granted by the honourable CAT/GH vide the judgement
cited above. I further mention some names of such ad-hoc ATMs
who got the fixation benefit at the time of their promotion to
TM. They are Smt. Leela Chakraborty, Sr. TM, Sri D.K. Choudhury
retd. Sr. TM; both of CTO Agartala, Sri R.C. Paul, retd Sr. TM, CTO
Guwahati and Sri N.C. Chakraborty, retd Sr. TM DIO/Karimganj.
This is fact that I had worked as ATM in different spells as ~~you~~
you have mentioned in your letter in reference, But later
I was in continuous service as ATM till my promotion to TM
w.e.f. 23.11.93..... As such the conditions of ad-hoc
promotions in respect of other ATMs, whose names have been
mentioned earlier, were not considered as demerits for granting
granting the fixation benefits by the Honourable CAT/GH. And
on the basis of that judgement DOT issued the order as cited
above to grant the same benefit to all the similarly situated
officials.

After receiving your above mentioned letter I prayed to
the CAT/GH through proper channel and subsequently I was
informed by the Circle Secretary of my Union that the matter
has been sent back to you with a request to examine the issue
again as shown in Item no. 11 of the minutes of their meeting
with CAT held on 13.8.01.

With all this, I again pray to your kindness to ~~reconsider~~
reconsider the matter most sympathetically so that I am not
deprived of the benefit which was granted to my similarly
situated colleagues by the Honble Court and also by the
Department. I shall remain evergrateful to you for this deed
of kindness.

With regard.

Faithfully yours

Pradyumn Purokayastha
Sr. TM

cc. T. O. Silchar.

To

The Chief General, Telecom Assam Circle
Ulubari, Guwahati 781007.

(Through Proper Channel)

Sub: Prayer for fixation benefit following
ATM-TM merger in OTBP Scheme.

Ref: GMT/Silchar NO. E-28/STT/Genl/108
Dtd 25-07-2000.

Sir,

Reference to the above wherein a decision has been given by the G.M.T Silchar SSA, Silchar on my prayer dtd 9/3/2000 for the subject mentioned above, most humbly and respectfully I submit the following appeal before your kindness for favour of your sympathetic action and proper justice.

That Sir, I had been serving as ATM against a regular post since 23/10/83 at D.T.O. Silchar vide STT Silchar order NO E-5/ATM/AP/83-84 dtd at Silchar the 1st June 83 and S-9/offtg/ATM/AP/83-84 dtd 19/11/83 on promotion and continued to work in the same post till merger of both the cadres of ATM and LSG TM under OTBP scheme which was conferred upon me on 30/11/83 before my promotion to the Cadre of ATM I was trained by the department according to the system and norms laid down in the order of the then G.M.T N.E. Circle vide letter NO. STB/ATM-2/T/CH-11/L dtd 12-4-81. After completion of the said training for ATM I had worked as ATM in several spells temporarily in C.T.O. Agartala and D.T.O. Silchar and ultimately I got my promotion to the Cadre of ATM on Adhoc basis on 23/10/83 against a regular post of that cadre.

That Sir, consequent upon the implementation of OTBP scheme the officials in the lower cadre i.e. TLs in the pay scale of Rs 260/- to 480/- got the higher scale of Rs 425/- to 640/- at par with the scale of LSG/TM. But ATMs in the higher scale of Rs 380/- to 560/- could not agree to their merger with the LSG TMs in the same scale without any fixation benefit and accordingly they filed suits against this discrimination in many courts all over India. The courts including CAT Guwahati Bench pronounced their judgements in favour of the ATMs and granted fixation benefit of one increment from the date of their merger with the Cadre of LSG TM. But such benefit was limited only to the petitioners. In Assam and N.E. circles also as many as fifty such ATMs got the said fixation benefit. But there were some left out ATMs who did not get the scope of approaching the court of law. On their demand for such benefit the department issued a common order vide DOT/ND/letter NO 57-32/94/Tz dtd 5th Dec/94 in which the same fixation benefit was granted to all similarly situated ATMs.

That Sir, as soon as I learnt about the contents of this latest departmental order, I submitted my prayer to the concerned authority. But after a long period the SSA authority of Silchar has been very kind to intimate me that I am not eligible to get such fixation benefit since my promotion was an adhoc basis and was not confirmed subsequently through any DPC. It has further been mentioned there in the said letter that if these conditions were fulfilled I might be eligible for the same.

That Sir, many ATMs who got such fixation benefit had been promoted on adhoc and temporary basis and had never been regularised in the cadre through any subsequent

DPCA and they continued to work in the same cadre till their merger with the cadre of LSG TM in the OTBP scheme.

Sri N.C.Chakraborty, ATM DTO Karimganj in Assam circle and Smti LILA Chakraborty, ATM, Sri D.K.Choudhury, ATM both of C.T.O. Agartala in N.E. circle are three among those who got such benefit and to the best of my knowledge my position is very similarly situated with them. Being placed at the similarly situated position, I cannot understand why the same benefit has been denied in my case while the order cited above ensures my eligibility for such benefit.

With all these I humbly seek your kind consideration and proper justice so that an ordinary employee like me is not deprived of the monetary benefit granted by the department.. I shall remain ever grateful to your gracious self for this deed of kindness.

With regards.

Yours faithfully,

Copy enclosed.

1. GMT/Silchar's letter under reference.
2. SII/Silchar's letters.
 - (a) dtd the 1st June/83.
 - (b) dtd 19//11/83.
3. GMT/NE Circle letter on norms of ATM Trsining. dtd 12.4.81.
4. List of ATMs Who got fixation benefit on Court order.
5. IXI/ND 57-32/94/Tz dtd 5th Dec/94.

It is forwarded to CCMT/gh
on 20th March/2001
by CMT office/SC as
told by J.R. Paul, DE (P&A)

To,

The A.S.T.T. & Incharge,
D.T.O. Silchar.

Sub:- Fixation of Pay on promotion
from ATM to TM

Ref:- Your letter No.S-3/Fixation/99-2000
dated 8-2-2000.

Sir,

I would like to inform you ~~xxx~~ that I was allowed to officiate as ATM with effect from the forenoon of 23-10-83 under Superintendent Telegraph Traffic, Silchar Division Silchar ~~letter~~ No.S-9/Offtg/ATM/AP/83-84 dated 19-11-83 which was conveyed to me vide A.S.T.T. I/C D.T.O. Silchar letter No. E-3/83 dated 23-11-83. (Copy enclosed).

It is needless to mention here that it is not clear from the letter under reference whether my promotion as ATM on ADHOC basis or on DPC approved basis w.e.f. 23-10-83(F/N). The same may be confirmed from available office records or from the office of the Superintendent Telegraph Traffic, Silchar Dvn, Silchar (Now designated as SDE(TFC) Silchar SSA Unit Silchar).

More over I would also like to inform you that all the ATMs who got the fixation benefits were on promotion as ATM on adhoc basis earlier.

Thanking you,

Enclo/-1(One)
copy of letter no.
E-3/83 dated 23-11-83.
dated at Silchar
the 9th March/2000

Yours faithfully,

A. Purkayastha
(A. PURKAYASTHA), TM

A. T. O. Silchar

2/1/2001
100-28831
10
The General Manager,

BDM, Silchar

Silchar.

(Through proper channel)

7-11
Dated Silchar, the *7th* Nov/01

Subj:- Prayer for fixation of pay while promoting to TM from ATM.

Ref:- GM/Silchar no. L-3/Fixation/*year-mcf* 2000-01 dtd the 29th July/2000.

Sir,

Reference to the above I beg most respectfully to state that I applied to you for granting me the benefit of fixation of pay in the light of GOI/NE Letter No.57-32/74/12 dtd 5th Dec/1994 and CAT/CH Bench order no. MP 9/94(O)A 134/93 dtd 27.01.94 and 441 dtd 03.01.94. But unfortunately for me your honour did not find me eligible to get the benefit as per your letter in reference.

In this connection I like to mention here that almost all the ATMs in the Circle, though some of them had been promoted to the post of ATMs under purely adhoc basis, got the same benefit as granted by the honourable CAT/CH vide the judgement cited above. I further mention some name of such ad-hoc ATMs who got the fixation benefit at the time of their promotion to TM. They are Smt. Leela Chakraborty, Sr.TM, Sri G.K. Choudhury retd. Sr.TM; both of CTO Agartala, Sri R.C. Paul, retd Sr.TM, CTO Guwahati and Sri N.C. Chakraborty, retd Sr.TM D/O/Karimnagar. This is fact that I had worked as ATM in different spells as you have mentioned in your letter in reference, But later I was in continuous service as ATM till my promotion to TM w.e.f. 7.8.1982.... As such the conditions of ad-hoc promotions in respect of other ATMs, whose name have been mentioned earlier, were not considered as demerits for granting the fixation benefits by the Honourable CAT/CH. And on the basis of that judgement GOI issued the order as cited above to grant the same benefit to all the similarly situated officials.

After receiving your above mentioned letter I prayed to the GM/CH through proper channel and subsequently I was informed by the Circle Secretary of my Union that the matter has been sent back to you with a request to examine the issue again as shown in Item no.11 of the minutes of their meeting with GM held on 13.3.01.

With all this, I again pray to your kindness to reconsider the matter most sympathetically so that I am not deprived of the benefit which was granted to my similarly situated colleagues by the Honble Court and also by the Department. I shall remain evergrateful to you for this deed of kindness.

With regards,

Faithfully yours

Jyoti Chandra San
(Jyoti)
D.O. Silchar

To

The Chief General Manager,
ISLcom, Nassam Circle Ulubari
Guwahati-781007.

(Through proper Channel).

Subj:- Prayer for fixation benefit following APLTA
merger in OPLTA scheme.

Ref:- GMR/Silchar No. 1-23/PT/Sec1/109 dated 25.7.2000.

Sir,

Reference to the above wherein a decision has
been given by the S.I. Silchar, Silchar on my prayer
dated 15th July'99 for the subject mentioned above, most
humbly and respectfully I submit the following appeal
before your kindness for favour of your sympathetic action
and proper justice.

That Sir, I had been serving as ATM against a
regular post since 7.8.82 at P.O. Mizawl vide PT/SC
No. 6/PT & Postg/82-83 dated 4.4.82, P.O. Silchar
No. 19/82 dated 12.4.82 and at P.O. Silchar
vide PT/Silchar No. 1-23/Postg/PT/Postg/83-84 dated
6.10.83 on promotion and continued to work without
any reversion in the post till merger of both the cadres
of ATM & L.G/SC under OPLTA scheme which was conferred
upon me on 30.11.83 vide GMR No. 1-18/PT/SC/PTC
dated 7.9.84. Before my promotion to the cadre of
ATM, I was trained by the Department according to the
system and norms laid down there in the order of the
then GMR No. circle vide letter No. 1-11/ATM-2/PT/SC-II/L
dated 12.4.81. I successfully completed the ATM train-
ing of 4 (four) weeks at P.O. Silchar vide PT-No.
1-21/ATM/PTG/81-82 dated at Silchar the 7th April/82.
After completion of the said training for ATM I had been
working as ATM on promotion in P.O. Mizawl and P.O.
Silchar on adhoc basis against a regular post of that
cadre.

That Sir, consequent upon the implementation of
OPLTA scheme, the officials in the lower cadre i.e. LGS in
the pay scale of Rs. 260/- ... 430/- got the higher scale
of Rs. 425/- ... 640/- at par with the scale of L.G. I.S.
but L.S. in the higher scale of Rs. 380/- to 560/- could
not agree to their merger with the LGS in the same

contd....p/2.

joined DT O/SC
on 22/10/83

- 2 -

scale without any fixation benefit and accordingly they filed suits against this discrimination in many courts all over India. The courts including SAT Guwahati Branch pronounced their judgments in favour of the AMS and granted fixation benefit of one increment from the date of their merger with the cadre of LSG IM. But such benefit was limited only to the petitioners. In Assam & N.E. circles also as many as fifty (50) such AM got the said fixation benefit. But there were some left out AM, who did not get the scope of approaching the court of law. On their demand for such benefit in the Department issued a common order vide D/O/ND/Letter No. 57-32/94/T2 dated 5th Dec/94 in which the same fixation benefit was granted to all similarly situated AMS.

That Sir, as soon as I learnt about contents of this latest Departmental order, I submitted my prayer to the concerned Authority. But after a long period the SSA Authority of Silchar has been very kind to intimate me that I am not eligible to get such fixation benefit since my promotion was on adhoc basis and was not confirmed subsequently through any D.C. It was further been mentioned there in the said letter that if those conditions were fulfilled I might be eligible for the same.

That Sir, many AMS who got such fixation benefit, had been promoted on adhoc and temporary basis and had never been regularised in the cadre through any subsequent DPC and they continued to work in the same cadre till their merger with the cadre of LSG I.M. in the STBP scheme. Sri N.C. Chakraborty AM, D/O Karimganj in Assam circle and Smt. Lila Chakraborty AM, Sri P.K. Choudhury, AM both of C.T.O. Agartala in N.E. circle are some among those who got such benefit and to the best of my knowledge my position is very similarly situated with them. Being placed at the similarly situated position I can not understand why the same benefit has been denied in my case while the order cited above ensures my eligibility for such benefit.

With all this I humbly seek your kind consideration and proper justice, so that an ordinary employee like me is not deprived of the monetary benefit granted by the

contd....p/3.

- 2 -

Department. I shall remain ever grateful to you
gracious self for this deed of kindness.

With regards,

Yours faithfully,

Dated at Silchar,
The 29th Aug/2000.

J. Chandra

(JYOTISH CHANDRA DAS)
C. T. A.
D. T. O. SILCHAR.

-54-

To
The S.D.D.(T) SILCHAR
S.S.A.SILCHAR.

(Thro proper channel).

Subj: Refixation of pay of A.T.M TO T.M. under FR.22(C)
on promotion.

Sir,

With due respect and humble submission I beg to lay before you the following few lines for your information and necessary action.

that sir, I had submitted a representation to the JTO(T) In-Charge DTO Silchar on 15th July 1999 for re-fixation of my pay on promotion from ATM. to TM cadre in response to the court verdict and thereafter general order issued by the DOPT New Delhi on 5th Dec 1994.

But it has come to my notice that till so-far case is lying untouched in the DTO Silchar, on the other hand similar nature of case of Shri C.K.Deb and Shri A.Purkayasthya DTO Silchar were processed long back and were sent to your office for final approval.

Cause of non-processing of my case is un-known to me.

I therefore request to use your good office's for early settlement of my case.

Thanking you.

Yours Faithfully

Jyotash Chandra Das
(Jyotash Ch. Das. CTM)
DTO Silchar

Dated at Silchar the
14th Feb 2000.

Copy to:-

1. Copy of re-presentation Addressed to the JTO I/C DTO/SC. *Adv of 2001 re-fixation of ATM.* Enclosed
2. Advance Copy to the SDE(T) by hand and enclosed with the order of DOPT /Representation to the JTO(T) I/C Silchar/ on 15th July 1999. *Adv copy of 2001 re-fixation*
- ✓ 3. Branch Secy. T-III for look into the matter.
4. *Adv of 2001 re-fixation of ATM.*

To
The J.T.O. (T) 3/c,
D.T.O. Sitchar.

Subj: Prayer for pay fixation of ATM to
7M under IR 22(c) on promotion.

Sir,

With due respect, I like to
inform you that my colleague Sri
N. C. Chatterjee of D.T.O. Karimganj
whose name was included in court
case of Guwahati CAT, got the
financial benefit from that court
approx. five years back.

Since my name was not included
in that court case, I was deprived
of the financial benefit.

However in the Telegraph crusade
published October/98, DOPT agreed to
extend the same financial benefit to
all other employees similarly situated
and 5th December 1994 the general
order was issued by the DOPT.

Therefore, I request you to look
into the matter and extend the
financial benefit to me at an
early date.

encls: 1) order of DOPT
5th Dec/94
2) cert. ficat. of 7M
7th Apr/82

Dated at Sitchar
the 15th July/99.

Yours sincerely,
Joykish Chandra Das,
C.T.M.,
D.T.O. Sitchar.

- 5B - Annexure - 70

INDIAN POSTS AND TELEGRAPHS DEPARTMENT
OFFICE OF THE CHIEF SUPERINTENDENT : C.T.O. GAUHATI.

No. STA-12/ATM/150

Dated at Gauhati the 1.1.82.

In pursuance of D.G. P&T New Delhi memo No. 19-20/80-TE-II dated 4.10.80 conveyed vide C.M.T. N.E. Circle, Shillong letter No. EST/DT-1/Part-3/Losses/22 dated 21.12.81, the following seniormost telegraphists of Gauhati T.T. Division qualified on 4 weeks job training of ATM are promoted as officiating ATM with immediate effect and posted at CTC Gauhati under A.E. Electrical (Indoor), CTC Gauhati in the scale of pay Rs. 300-560/-.

Sl. No.	Name of the officials with designation.	Office to which attached.
1.	Sri A.K. Mishra, Telegraphist	DTO Bongaigaon
2.	" R.C. Paul, Telegraphist	CTO Gauhati.

The appointment is purely on ad-hoc basis and this will have no claim for continuing against this post unless they are selected on the basis of new recruitment rules for the cadre of ATM.

The officials so appointed will be allowed to draw pay and allowances as per the new scales prescribed on the basis of 3rd C.P.C.

They should submit charge report.

sd/-
(U. Guha)
Chief Superintendent
C.T.O. Gauhati.

Copy to:-

- 1-2 Officials concerned.
- 3-4 PF of the officials thro. S/B-I. R.C. Paul, Th. CTO Gau
- 5 TM I/C, DTO Bongaigaon for information and necessary action
- 6 A.E. Elec. (I/D), CTC Gauhati.
- 7 ACS, CTC Gauhati.
- 8 C.M.T. N.E. Circle, Shillong w.r. to his letter cited above.
- 9 AC(TA), S. the GMT Shillong w.r. to GMT's letter cited above.
- 10 SS/Accountant, CTC Gauhati.
- 11 Head Clerk, Estb. Sec., CTC Gauhati for entry in S/Books.
- 12 SAT-10/Office file.
- 13 Spare
- 14 C/O.

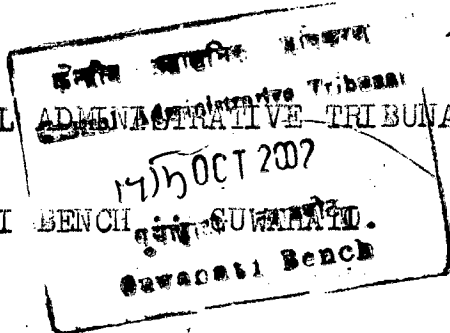
sd/-
(U. Guha)
Chief Superintendent
C.T.O. Gauhati.
and
S.S.T. Gauhati Division
Gauhati-781001.

Certified to be true copy.

A/
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH



O.A. NO. 118 OF 2002

Filed by

11/10/02

(A. DEBROY)

Sr. C. G. S. C.

C. A. T. Guwahati Bench

Shri C.K. Deb & 3 Ors.

-Vs-

Union of India & Ors.

- And -

IN THE MATTER OF ::

Written statement submitted by
the respondents.

The respondents begs to submit written statement
as follows :-

1. That with regard to para - 1, the respondents beg to state that the post of Telegraph Master involves higher duties and responsibilities that the ATM on promotion from ATM to T.M. the benefit of FR 22/c (now FR,22(I)(a)(i)) is admissible following a numerous judgment pronounced by various benches of CAT, the department has passed order for fixation of pay under FR 22(C) on promotion from ATM to TM vide OM No 57-32/94/T.2 dated 5.12.94.

A copy of the OM dated 5/12/94 is placed as
Annexure - R - 1.

contd...P/2

-58-

74

2. That with regard to para - 2 , the Respondents beg to offer no comments.

3. That with regard to para - 3, the Respondents beg to state that the applicants were promoted to the cadre of Telegraph Master w.e.f. 30.11.83 vide order No. E-5/ TBP/ TL/ 84-85 dated 23.7.84 and their pay was fixed correctly. Their appointment and promotion particulars as follows :-

SL. No.	Name of the official	Date of entry as TL	D.O.promotion as TM under OTBP Scheme	Date of Promotion as Sr.TM under BCR IV Scheme.	Date of Promotion as CTM Cadre
1.	Sri C.K. Deb.	20.06.63	30.11.83	24.10.90	10.01.02
2.	Sri J.C.Das	25.06.63	30.11.83	24.10.90	01.07.91
3.	Sri A.Purpayastha.	04.05.65	30.11.83	01.07.91	-
4.	Sri M.C. Paul	25.06.63	30.11.83	24.10.90	-

They cannot agitate over the matter after long 18 years. Repeated correspondences do not give a fresh lease of the life to the time barred case. The OA is suffered by the limitation of time.

contd...P/3

4. That with regard to para - 4.1, the respondents beg to state that the applicants were promoted from the cadre of Telegraphist to the scale of Telegraph Master(TM) under the one time bound promotion (OTBP) scheme of the department introduced w.e.f.30.11.83.

The order of promotion was issued by GM N.E. Shillong vide OM No-STB/Z-109/TBPs/TTC dated 09.07.84 and implemented by Superintendent Telegraph Traffic (STT), Silchar vide his order No ~~NR~~ E-5/TBP/TL/84-85 dated 23.07.1984. In both the orders it was clearly mentioned that the promotion is from the cadre of Telegraphist to the grade of LSG TM in scale of Rs.425-640/- under OTBP Scheme. This is not a promotion from ATM to TM.

5. That with regard to para - 4.2, the respondents beg to state that the facts are as same as above i.e. para - 4.1.

6. That with regard to para - 4.3, the respondents beg to state that prior to introduction of OTBP scheme from 30.11.83 there existed three cadre in the direct promotional line. The basic grade Telegraphist was in the scale of Rs. 260-480. The next promotional grade was Asstt. Telegraph Master (A T M) in the scale of Rs. 380-560 followed by T.M. in the scale of Rs.425-640

7. That with regard to para - 4.4, the respondents beg to state that on the introduction of OTBP scheme w.e.f. 30.11.83 the intervening grade A T M was abolished under the newly introduced scheme all Telegraphist who complete 16 years of service including the period served as A TM if any was promoted to the scale of T M, 425-640/-.

8. That with regard to para - 4.5, the respondents beg to state that as submitted above all Telegraphist and ATM who have completed 16 years of service were placed in the scale of Rs. 425- 640 and their pay was fixed under FR 22 (C).

The applicants were never promoted to ATM on regular basis. They were however promoted on local arrangement on adhoc officiating basis to work as ATM for small duration against short-term vacancy and pending selection and posting of regular ATM. On the date of promotion i.e. 30.11.83 the applicants were holding the post of Telegraphist and they were promoted from Telegraphist to the scale of Rs. 425-640/-.

Their pay on promotion was correctly fixed under ~~FR under~~ FR 22 (C) with reference to pay as Telegraphist as on that date.

contd....P/5

9. That with regard to para - 4.6, the respondents beg to state that promotion from Telegraphist to the cadre of Telegraph Master involves assumption of higher ~~xxx~~ responsibility and pay is accordingly fixed under FR 22(C) (Old).

10. That with regard to para - 4.7, the respondents beg to state that the rules ~~x~~ regarding fixation of pay on promotion of ATM to TM do not apply in the case of the applicants as they were promoted from Telegraphist to Telegraph Master.

The applicants were not promoted/ appointment as ATM regular basis. The short term adhoc local officiating ~~x~~ arrangement in the ATM cadre do not bestow on the applicant the right for regular absorption in the ATM cadre nor they are entitled for fixation of pay on the basis of pay drawn as ATM on local officiating capacity.

11. That with regard to para - 4.8, the respondents beg to state that the pay of the applicant was not fixed in accordance with the letter dated 29.11.78. The provision of the rules regarding fixation of pay on promotion from ATM to TM do not apply to the applicants as they were not promoted from ATM to TM. The applicants

The applicants were in fact promoted from Telegraphist to TM under OTEP scheme and their pay was fixed accordingly.

12. That with regard to para - 4.9, the respondents beg to state that the applicants made belated representations in 2000 making similar request for fixation of pay with reference to ATM scale. The representations were considered by the departmental authority and the decision was communicated to them through JTO i/c DOT, Silchar vide his letter No-E-3/Fixation/CKD-AP/2000-01 dated 29.07.2000. It was made clear through the letter as to why the relief is not admissible to them.

A copy of the dated 29.07.2000 is annexed as

Annexure R.→2

13. That with regard to para - 4.10, the respondents beg to state that the ratio of the judgment does not help the case of the applicant. The subject matter of the OAs relates to the mode of pay fixation from ATM to TM. In pursuance to the judgment pronounced by Principal Bench and other benches of CAT the department has modified the letter dated 29.11.78 by OM dated 5.12.94 and granted the benefit of FR 22(C) to all ATMs promoted to TM.

contd... P/7

14. That with regard to para - 4.12, the respondents beg to state that as submitted in para -4.9 above the representations of the applicants have been disposed of by passing a common reasoned order dated 29.07.2000.

15. That with regard to para - 4.13, the respondents beg to state that the OAs cited by the applicant have no effect on the case of the applicants.

16. That with regard to para - 4.14, 4.15 & 4.16, the respondents beg to state that the OAs relied upon by the applicants relates to pay promotion from ATM to TM before the introduction of OTBP scheme. The department complied with the judgment and made rules extending the benefit of FR 22(C) to all ATM on promotion to TM.

17. That with regard to para - 4.17, the Respondents beg to state that the order dated 05.12.94 regarding fixation of pay on promotion from ATM to TM does not help the case of the applicants as they were promoted from Telegraphist to Telegraph Master. The order of promotion clearly indicate that the applicants were promoted from Telegraphist to TM under OTBP scheme.

18. That with regard to para - ~~4.18~~, 4.18, the respondents beg to state that the judgment and order dated 19.12.94 has been complied with by extending the benefit to the 4 applicants who were promoted from ATM to TM subsequently vide order dated 5.12.94 the benefits has been extended to all ATMs on promotion to TM. The applicants are not similarly situated as they were not promoted from ATM to TM.

19. That with regard to para - 4.19 and 4.20, the respondents beg to state that the representation of the applicants were duly considered in consultation with the fact and circumstances of the case and relevant rules and thereafter disposed the case on merit.

20. That with regard to para - 4.21, the respondents beg to state that the representations do not disclose any new fact and there is no justified reason to change the earlier decision. The fact remains that the applicants were holding the post of Telegraphist at the time of their promotion to TM.

21. That with regard to para - 4.22, the respondents beg to state that the applicants are not similarly situated with the officials whose pay were fixed w.r.t. their pay as ATM. The officials who were promoted/appointed

as ATM on regular basis after due process of selection on circle basis from a district group of ATM on regular basis. The present applicants do not fall in that groups as they were never appointed as ATM on regular basis.

The fact that the applicants were locally officiating as ATM for small period of time on adhoc basis that too without DPC recommendation does not confer on them the status on them the status of regular ATM. The officiating order explicitly contain the condition that the adhoc service as ATM would not count for seniority in the ATM for promotion confirmation.

The order of the local arrangement in respect of the applicants are annexed at annexure R series.

22. That with regard to para - 4.23, the respondents beg to state that the present OA is devoid of merit and do not have the support of law/rules. The OA deserve to be dismissed.

V E R I F I C A T I O N

V E R I F I C A T I O N .

I, Shri Shankar Chandra Das presently
working as *Asstt. Director Telecom (Legal)* be duly authorised
and competent to sign this verification, do hereby
solemnly affirm and declare that the statements made in
para are true to
my knowledge and belief, these made in para
are true to my information derived there
from and rest are my humble submission before the
Hon.ble CAT, I have not suppressed any material fact.
And I sign this verification on this *3rd* ~~th~~ day
of *October* 2002.

Shankar Chandra Das

DECLARANT.

सहायक निदेशक दूरसंचार (विधि)

Assistant Director Telecom (Legal)

कार्यालय, महान उद्योग एवं दूरसंचार

O/o The Chief Engineer, Assam Telecom,

असम दूरसंचार परिषद, गुवाहाटी-७

Assam Telecom Circle, Guwahati-7

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
DAK BIVAS, PARLIAMENT COMPLEX
NEW DELHI-110 011

NO. 57-32/94/T.2

Dated 5th Dec., 1994

To

All Heads of Telecom. Circles,
Metro Distts./Maintenance Regions/Project
Circles and other Administrative units.

Subj: Fixation of pay under PR 22(C) on promotion
from ATM to TM to all similarly placed employees.

Sir,

In pursuance of numerous judgements pronounced by various benches of CAT regarding fixation of pay of ATMs on their promotion to LSGM, which were implemented to applicants only. The matter was examined in consultation with Ministry of Finance/Department of Personnel for extending the same to similarly situated employees.

2- Telecom. Commission is pleased to grant the benefit of fixation of pay under PR 22(C) (now PR 22.1(2)(1)), on the promotion from ATM to TM to all similarly situated employees along with consequential benefits.

The pay & allowances may be drawn accordingly from the date of their actual promotion.

This issue with the concurrence of Telecom. Finance vide their O.O.No. 34-26/94/P2-1, dated 22.11.94.

Yours faithfully,

(B.N. UPADHYAYA)
Director (TSG)

... 2/..

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE JUNIOR TELECOM OFFICER, TRAFFIC I/S,
DTO SILCHAR.

ANNEXURE R2

No. E-3/Fixation/CMD-AP/2000-01 dated the 29th July/ 2000.

To,

1. Sri. I. J.C. Das, CTM DTO Silchar.
2. Sri M.C. Paul. DTO Silchar.
3. Sri C.K. Dev, TMT DTO Silchar.
4. Sri A. Purkayastha, TMT DTO Silchar.

Sum:-

Fixation of pay from Adhoc-ATM to TM LSG(OTBP)

An extract of the letter No. E-28/STT/Genl/108 dated 25-07-2000 from the General Manager Telecom Silchar received under ~~XXXXXXXXXX~~ S.D.E. Traffic, Silchar letter No. EST-1/FIXN/2000-01 dated the 26th July/2000 is appended herewith for favour of your information.

[Signature]
29/7/2000
Junior Telecom Officer (T)
I/C DTO Silchar.

EXTRACT OF THE LETTER CITED ABOVE.

I. T. O. (I) dt
D. T. O. ~~XXXXXX~~

Ref:- Your letter No. EST-1/FIXN/PAY/2000 dated 17.01.2000 and even dated 16.3.2000 and 16.03.2000.

"With reference to the above, the cases have been examined in the light of DOT/MD letter No. 57-32/94/T2 dated 5th Dec. 1994 and CAT/OM Bench order No. MP 9/94 (O)A 134/93 dated 27.01.94 and 441 dtd. 03.01.94.

The order is very clear. The officials promoted from ATM to TM are entitled to such benefits.

The applicants in your establishment, as referred above, were not ATM on regular basis who were promoted to TM under OTBP scheme. They were officiating in different spells on purely local arrangement, adhoc basis and were not approved by DPC for the cadre of ATM.

Their substantive cadre, prior to promotion as TM, were TL only and conditions of adhoc promotions have been clearly specified in different orders issued by STT/SC, ASST(I/C), DPO/SC etc.

As such, they are not eligible to get the pay-fixation benefit, as claimed for.

The officials may be intimated accordingly.

TBO1
Sd/- (I.R. Paul)
Divisional Engineer (P&A)
O/o the COTelexcom, Silchar.

6-14
ANNEX DRE-R Series
INDIAN POSTS AND TELEGRAPH DEPARTMENT.
OFFICE OF THE SUPERINTENDENT TELEGRAPH TRAFFIC, SILCHAR DIVISION.

NO. E-5/ATM/81-82,
Dated at Silchar the 1st Decr/82.

In accordance with the order contained in the General Manager N.E. Telecom, Circle Shillong memo No. STB/ATM-2/T/OH.II/L dated 13-4-81, Shri S.B.D. Purkayastha and Shri G.K. Dev MM seniormost Tln of D.T.O. Silchar, qualified in A.T. training, are hereby promoted as Assistant Telegraph Master, with effect from 1-3-1982 in the scale of Rs. 380/- to Rs. 560/-.

2. The appointment is purely an adhoc basis and the officials will have no claims for continuing against this post unless he is selected by the D.P.O. for the cadre of Assistant Telegraph Master.

3. The adhoc service rendered by the officials would not count for the purpose of seniority in the Grade of Assistant Telegraph Master, for eligibility for promotion, confirmation.

4. The officials so appointed will be allowed to draw pay and allowances as per new scales prescribed on the basis of 3rd G.P.C.

SD/- (R. Sarkar)
Superintendent Telegraph Traffic
Silchar Division Silchar-788001

Copy to:-

1. The General Manager, N.E. Telecommunication Circle Shillong.
- 2-3. The Officials concerned (through ASST DTO Silchar).
- ✓ 4-5. The personal files of the officials (Through ASST DTO SC).
6. The Assistant Superintendent Telegraph Traffic Incharge, D.T.O. Silchar with request to take necessary entries in the service books of the officials concerned.
7. Ad-hoc promotion file (H-3).
8. Office file.

R. Sarkar
(R. Sarkar) 3.82
Superintendent Telegraph Traffic,
Silchar Division Silchar-788001

पत्र-व्यवहार-22
Corr-22

भारतीय डाक-तार विभाग
INDIAN POSTS AND TELEGRAPHS DEPARTMENT

प्रेषक Superintendent.
From Telegraph Traffic
Silchar Division

क्रम संख्या Silchar - 788001
No. S-21/ATM-TRG/81-82

हस्ता में
To The Asstt. Superintendent T.T. I/C,
D.T.O. Silchar -788001.

दिनांक
Dated at Silchar the 1st March, 82.

विषय
Subject: - Local training for ATM.

In continuation of this office letter of even number dated 13-1-82, it is requested to impart Shri J.C. Das next senior TL for 4(Four) weeks training in ATMs job locally and thereafter the the trainee, if required may be appointed as A.T.M. on adhoc basis, which however will not confer on them any right to regular appointment or continuat~~ion~~ in the post unless approved by the competent authority.

The date of completion of 4 (four) weeks training in respect of Shri M.C. Paul TL may please be intimated immediately to fill up the vacancy of ATMs on adhoc basis.

This is urgent.

(R. Sarkar)
Superintendent Telegraph Traffic,
Silchar Division Silchar-788001.

Seen

J. Das
3/3/82

INDIAN POSTS AND TELEGRAPHS DEPARTMENT.
OFFICE OF THE SUPERINTENDENT TELEGRAPH TRAFFIC: SILCHAR DIVN. SI

No. E-5/ATM/AP/83-84,

Dated at Silchar the 1st June, 83

In accordance with the orders contained in the General M N.E. Telecom Circle Shillong memo No. STB/ATM-2/T/CH.II/L Date 13-4-81, Shri A. Purkyastha ~~xxx~~, senior most TL of D.T.C. Silc qualified in A.T.M.s training is hereby promoted as Assistant Telegraph Master, with effect from 1-6-83 in the scale of of Rs. 380/- to 560/-.

2. The appointment is purely on adhoc basis and the official will have no claims for continuing against this post unless are selected by the D.P.C. for the cadre of Assistant Telegraph Master.

3. The adhoc service rendered by the officials would not count for the purpose of seniority in the grade of A.T.M.s, for eligibility for promotion, confirmation.

4. The officials so appointed will be allowed to draw pay & allowances as per new scales prescribed on the basis of the 3rd C.P.C.

The adhoc arrangement as made under this office letter E-5/ATM/82-83 dated 2.8-83 in respect of Shri F.A. Laskar, TL, hereby terminated with effect from 1/6/83 and Shri L is reverted to his original post of telegraphist and posted at DTC Silchar

Sd/- R. Sarker.
Superintendent Telegraph Traffic
Silchar Division Silchar-71

Copy to:-

- 1) The General Manager Telecom, NEC Shillong.
2. The official concerned. (through BSTT/le)
3. The personal file of the official concerned.
4. The A.S.T.T. I/C DTC Silchar with request to make necessary entries in the service books of the officials concerned
5. In file S-21/ATM.
6. O/C.

Superintendent Telegraph Traffic
Silchar Division Silchar-71

Received
27/6/83

72 ANNEXURE-R Series 88

INDIAN POSTS AND TELEGRAPHS DEPARTMENT
OFFICE OF THE SUPERINTENDENT TELEGRAPH TRAFFIC SILCHAR
DIVISION SILCHAR::788001

Memo No.S-9/Offtg/ATM/AP/SC/83-84
Dated at Silchar the 13th June/83

~~Traffic~~ Postfacto sanction of the Superintendent Telegraph Traffic Silchar Division Silchar is hereby accorded for the following officiating arrangement at D.T.O. Silchar.

Shri. A.Purkayastha seniormost Tl (Locally trained on the job trainee as ATM at CTO Agartala) will officiate as A.T.M. with effect from 15-5-83 to 31-5-83 (17 days) vice Shri D.C.Des adhoc ATM who has been transferred to D.T.O. Aizawl.

Certified that the nature and work of the vacant post of ATM DTO Silchar ~~xxxxxx~~ is such as cannot be managed without a full time substitute.

Sd/- (R.Sarkar)
Superintendent Telegraph Traffic
Silchar Division Silchar::788001
Telephone No Silchar:::333

Copy to:-

- (1) The A.S.T.T. I/C DTO Silchar with reference to his letter No.E-5/ATM/83-84 dated 2-6-83,
- (2) The Accounts Officer (TA) O/C the GMT/NE Circle, Shillong 793001 for information.
- (3) Office copy.
- (4) Spare copy.

13.6.83
(R.Sarkar)
Superintendent Telegraph Traffic
Silchar Division Silchar::788001
Telephone No Silchar:::333

17 days

E-5

89

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GOVT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE CHIEF GENERAL MANAGER, TELECOMMUNICATIONS
ASSAM TELECOM CIRCLE GUWAHATI

177

NO-TELE-1/15/92-93/50

Dated at Guwahati the 1st May-1992

In pursuance of Telecom Directorate's No-27-4/87-TE-II
(1) dated 10.10.90, the Chief General Manager, Telecom Guwahati is pleased
to issue the following promotions order detailed in enclosed
annexures-I to VIII.

These promotions are, under BCR scheme, from TOA(TT)/TOA(TG)
grade-II to TOA(TT)/TOA(TG) grade-III in the scale of pay Rs.1600/-2660/-

Crucial dates for BCR is mentioned in the annexures,
seniority of senior officials will not be affected by BCR scheme.

This order is issued on supersession of all previous
orders in this regards (except the cases of grade-IV).

In case any disc/vig. case or stoppage of increment
1/2/3 any official is current, the matter should be reported immediately
to this office, and concerned officer should not be promoted without
prior approval of this office.

Encl:-I-Annexures-

I, II, III, IV, V, VI, VII, VIII.

(M.A. Nasser)
Dy. General Manager (Adm)
for Chief General Manager
Telecom,
Assam Telecom Circle,
Guwahati.

Copy for information and necessary action forwarded to:

- (1) Dy. General Manager, City TT Division, Guwahati.
- (2) Dy. General Manager, Silchar/Dibrugarh/Tezpur/Bongaigaon.
- (3) The Telecom Dept.
- (4) The Asst. Director Telecom/Dibrugarh.
- (5) ADT (Ext) w/o the CMT.
- (6) ADT (Ext) w/o the CMT Guwahati.
- (7) ADT (Ext) w/o the CMT Guwahati.
- (8) ADT (Ext) w/o the CMT Guwahati.

NCD-5
15/92
(H.C. Das)
Asstt. Director Telecom(T)
for Chief General Manager
Telecom, Assam Telecom Circle,
Guwahati-7

NO. E-5/STBP/BCR/92-93 Dated at Sivas the 12-5-92

Copy forwarded to

- (1) A.S.T. w/o Dy. General Manager/Karimganj
for information and necessary action. Supdt. Tele Traffic

B-5 1.

List of Officials promoted to TOAYT) under BCR Scheme.

(Batch No-1 (To be activated from 24.10.90).

X1.	Sri Samarendra Narayan Choudhury.	OC
X2.	" Samarendra Narayan Chakraborty	OC
3.	" Dharanidhar Thakuria-----	OC
X4.	" Nilkantha Das-----	OC
5.	" Debeswar Kumar Day	OC
6.	" Himangshu Kumar Baruah	OC
7.	" Nitya Gopin Chakraborty	OC
8.	" Nitya Gopin Das	OC
9.	" Nitya Kantil Hanoti	OC
10.	" Sushil ranjan Sinha	OC
11.	" Kumar ranjan Deb	OC
12.	" Madan Ch. Das	OC
13.	" Ajoy Kumar Sinha	OC
14.	" Sundar Lal Das Bhattacharjee	OC
15.	" Anand Das	OC
16.	" Durga Prasad Das	OC
17.	" Hari Chandra Kumar	OC
18.	" Subhash Chandra Chanda	OC
19.	" Shyama Prasanna Mukherjee	OC
20.	Mrs. Bidyut Bhattacharjee	OC
X21.	Sri Sushil ranjan Dey Purkayastha	OC
22.	" Kalyan Kumar Das	OC
23.	" Panchikari Bhattacharjee	OC
24.	" Mahal Ch. Das	SC
25.	" Himangshu Sekhar Bose	OC
26.	" Giridhar Das	OC
27.	" Bhudhar Sarma	OC
28.	" Basu Chandra Deka	OC
29.	" Nitya Kantil Das	OC
30.	" Sunil Kumar Dutta	OC
31.	" Kalipada Deb	OC
32.	" Hafinurayan Paul	OC
33.	" Sunil Kumar Choudhary	OC
34.	" Tapas Kumar Datta	OC
35.	" Binoy Bhushan Roy	OC
36.	" Benimadhab Purkayastha	OC
X37.	Mrs. Smriti Gupta	OC
38.	Sri Nimal Ch. Chakraborty	OC
39.	" Chittaraj Kumar Deb	OC
40.	" Manindra Ch. Paul	OC
41.	" Jyoti Ch. Das (II)	SC
42.	" Jyoti Ch. Das	OC
43.	" Durgaran Das	SC
44.	" Western Kantil Das	OC
45.	" Pradip Ch. Sinha	OC
46.	" Nitya Kantil Das	OC
47.	" Nitya Kantil Das	OC

19
List of Officials promoted to TOAYT-Gr-III
under HCR Scheme.

(Batch No-1 (2) to be activated from 24.10.90).

9/	X1. Sri Samarendra Nardyan Choudhury	OC
	X2. " Samarendra Narayan Chakraborty	OC
	3. " Dharamnidhar Thakuria	OC
	X4. " Nikanta Das	OC
	5. " Debeswar Kumar Day	OC
	6. " Himangshu Kumar Baruah	OC
	7. " Nitya Gopal Chakraborty	OC
	8. "	OC
	9. " Mukul Kantil Banerji	OC
	10. " Sudhir Ranjan Sinha	OC
	11. "	OC
	12. " Madan Ch. Das	OC
	13. " Ajoy Kumar Sinha	OC
	14. "	OC
	15. "	OC
	16. "	OC
	17. "	OC
	18. "	OC
	19. " Shyama Prasanna Mukherjee	OC
	20. Mrs. Bidyut Bhattacharjee	OC
	X21. Sri Sushil Ranjan Dey Purkayastha	OC
	22. " Kalyan Kalyan Banerji	OC
	23. " Panchikari Bhattacharjee	OC
	24. " Mukul Ch. Das	SC
	25. " Himangshu Sekhar Bose	OC
	26. "	OC
	27. " Bhudhar Sarma	OC
	28. "	OC
	29. "	OC
	30. " Sunil Kumar Dutta	OC
	31. " Kalipada Deb	OC
	32. " Harinarayan Paul	OC
	33. " Sunil Kumar Choudhury	OC
	34. " Topan Kumar Saha	OC
	35. " Binoy Bhushan Roy	OC
	36. " Benamachal Purkayastha	OC
	37. Mrs.	OC
	38. Sri Nilmal Ch. Chakraborty	OC
	39. " Chinmay Kumar Deb	OC
	40. " Manindra Ch. Paul	OC
	41. " Jyoti Ch. Das (II)	SC
	42. "	OC
	43. "	SC
	44. "	OC
	45. "	OC
	46. "	OC
	47. "	OC

75 20 92
Batch No-II, (To be activated from 1.7.91).

1. Sri Siba Prasad Dey	OC
2. " Usharanjan Bakshi	OC
3. " Amalendu Purkayastha	OC
4. " Randhir Kumar Roy	OC
5. Mrs. Dipali Biswas	OC
6. Sri Manoj Bhattacharjee	OC
7. " Digendra Ch. Das	SC
8. " Parmoj ali Laskar	OC
9. " Bashu Mohan Das	SC
10. " Prankrishna Roy	SC
11. " Jagadish Ch. Mandal	SC
12. " Kanak Ch. Das	SC
13. Mrs. Suchanout Choudhury	ST
14. Sri Khagendra Mohan Choudhury	ST
15. " Bhogannwar Sonowal	ST.

Annexure - III

Batch No-III (To be activated from 1.1.92.)

1. Sri Subrata Bose	OC
2. Mrs. Rikta Dutta	OC
3. Sri Suchangshu Ranjan Dey	OC
4. Mrs. Kalpana Shyam	OC
5. Sri Suchit Ch. Chakraborty	OC
6. " Ramendra Nath Sarma	OC
7. " Brajendra Nath	OC
8. " Debiprasad Swarnakar	OC
9. " Barindra Prabod Dutta	OC
10. " Rabindra Ch. Das	SC
11. " Mrityunjoy Sikdar	SC

93
21
Annexure - IV

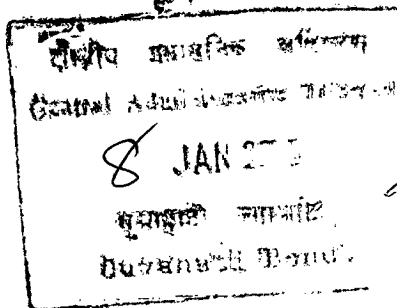
Batch No-IV (To be activated from 1.7.92)

1. Sri Sailendra Kumar Das OC
2. " Prabir Kumar Bhattacharjee (II) OC
3. " Maheshwar Saikia OC
4. " Subhomanjita Saikia OC
5. " Rohindra Kumar Paul OC

2
16. " Western Kanti Kar
17. " Prabhat Ch. Saikia

SC
OC
OC

DISTRICT: SILCHAR.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

Filed by the applicant-
Sri Chinmoy Kumar Deb
through Niranjan Baruah
Advocate.
(Advocate Niranjan Baruah)

IN THE MATTER OF: -

Shri Chinmoy Kumar Deb & others.

... Applicants.

-Versus-

The Union of India & others.

... Respondents.

-AND-

IN THE MATTER OF: -

A Re-joinder-in-Opposition filed
by the applicant Sri Chinmoy
Kumar Deb against the Written
Statement in O.A. No.118/2002.

(Re-joinder-in-Opposition)

I Sri Chinmoy Kumar Deb, son of late Upendra
Kr. Deb, resident of village Shaileasree Lane,
Tarapur, Silchar, Assam do hereby solemnly affirm
and state as follows:

Contd..

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as

1. That, I am the applicant No.1 in O.A.No.118/2002. A copy of the Written Statement was served on me by the Respondents on 28-11-2002. I have gone through the said Written Statement and understood the contents thereof. The statements and averments of the Written Statement which are not specifically admitted hereinafter by me are to be taken as denied.

2. That, as regards the contents of paragraph 1 of the Written Statement, the Deponent respectfully states that the respondents have already accepted the contention of applicants that Assistant Telecom Masters on promotion from Assistant Telecom Masters to Telecom Masters are entitled to get the benefit of F.R.22 (C) [Now F.R.22(1)(a)(i)] following the orders of various Central Administrative Tribunals; and the Department has already issued the orders in this respect.

3. That, as regards the contents of the paragraph 2 of the Written Statement the deponent has no comment thereon.

4. That, as regards the contents of paragraph 3 of the Written Statement, the deponent begs to state that the respondent authorities has felt to give the factual position. The factual position is that the

Contd..

officials were promoted from Telegraphist Cadre to Assistant Telegraph Master Cadre and then from Assistant Telegraph Master to Telegraph Master Cadre on the following dates:

Sl No	Name	D.O.E. in SVC as TL	D.O.P to ATM Cadre	D.O.P to TM Cadre
1.	Sri C.K.Deb	20-06-63	03-03-82	17-08-83
2.	Sri J.C.Das	25-06-63	07-08-82	17-08-83
3.	Sri M.C.Paul	25-06-63	01-07-82	17-08-83
4.	Sri A.Punbayartha	04-05-65	27-12-82	17-08-83

The above facts have already been informed by the S.D.O Telegraph Traffic to S.D.E. (HRD) of the office of the General Manager at Silchar. But the authority has not indicated that on 17-08-83 all Assistant Telegraph Master were merged with Telegraph Master Cadres as per order of D.G., P&T letters No.15-18/81 T.E.- II dated 17-08-83. It is a fact that the applicants got B.C.R. promotion on completion of 26 years of service being counted from the date of their appointment in the fiddler Cadre (Telegraph) on 24-10-90, 24-10-90, 01-07-91, 24-10-90 respectively. the deponent states that more than 60 officials of this Circles which were in the similar position were agitating over the matters since 1983 and only when they approach the Hon'ble Central Administrative Tribunal (CAT) was pleased to pass orders in favour of those applicants the authorities complied with the orders of the Hon'ble

Contd..

Central Administrative Tribunal (CAT) to give the benefits to those 60 officials. However, unfortunately the authority has recently started to reject almost all the representation of similarly situated persons mechanically.

Copies of the aforesaid order is annexed hereto and marked as ANNEXURE - 1 & 2 respectively.

5. That, as regards the contents of paragraph 4 of the Written Statement, the deponent respectfully denies the correctness of the same. The applicants were working as A.T.M. (Assistant Telegraph Master) on 17-08-83 when they were merged and promotion to the Cadre of T.M. (Telegraph Master), the applicants got their pay in the scale of Rs.425 to 640. However, the Department made the mistake by fixing the pay of the applicants under the then F.R.22(C)(a). In fact the applicants were to get the benefits under the old F.R.22(C). This position was also ratified by Hon'ble Central Administrative Tribunal (CAT) in the pronouncements of different judgments.

6. That, as regards the contents of the paragraphs 5, 6, & 7 of the Written Statement the deponents has no comments thereon.

Contd.

7. That, as regards the contents of the paragraph 8 of the Written Statement the deponent begs to state that these are not factually correct. Though the applicants were legally entitled to get the benefits of pay under F.R.22(C) in the post of Telegraph Master. The applicants have not been given those benefits arbitrary. Be it stated here that in quite a good number of cases the Hon'ble Principal Bench, CAT and several Benches including the Hon'ble Gauhati Bench of Central Administrative Tribunal have observed that the action of the respondent authority in not giving the benefits to similarly situated persons who were promoted to the post of Telegraph Master from the post of Assistant Telegraph Master (Ad-hoc) were arbitrary and not sustainable in law. Accordingly, the Hon'ble Tribunal was pleased to direct the respondent authority to grant the benefit under F.R.22(C) (Now F.R.22,1(a)(i)) to those applicants. The deponent states that the applicants are entitled to the benefits of pay under office Communication No.D.G. P&T Now Delhi No.213/4/74-SIB 1 dated 07 / 09-12-74 issued by General Manager N.E Circle, Shillong where it is clearly stated at Clause (C):

"The officials so appointed on Adhoc basis will be allowed to draw pay and allowances as per the

need scale prescribed on the basis of the recommendation of the 3rd Pay Commission."

The deponent respectfully states that one Shri A.K.Misra and another Shri R.C.Paul who were promoted to the post of Telegraph Master from Adhoc Assistant Telegraph Master were given the benefits vide C.S.C.T.O's letter No.STA-12/ATM/150 dated 01-01-82 under F.R.22(C) old in compliance with the order and judgment dated 23-09-83 passed by the Hon'ble Central Administrative Tribunal (CAT), Guwahati in O.A.No.134/93. Another similarly situated 4 officials were given the same benefits of promotion from Adhoc Assistant Telegraph Master to Telegraph Master in compliance with the order and judgment dated 19-12-94 passed in O.A.No.225/94.

Copies of the aforesaid orders and communication dated 07 / 09-12-74, 01-01-82, 23-09-93 and 19-12-94 are annexed hereto and marked as ANNEXURES - 3, 4, 5 & 6 respectively.

8. That, as regards the contents of paragraph 9 of the Written Statement, the deponent has no comment thereon.

9. That, as regards the contents of paragraph 10 of the Written Statement, the deponent categorically denies the same. The deponent respectfully reiterates what has been ascertain in paragraph 6 herein above.

10. That, as regards the contents of paragraphs 11 of the Written Statement, the deponent respectfully states that respondents has been trying to mislead the Hon'ble Tribunal by resorting to some irrelevant matter. The case of the applicants is very clear and simple. The applicants are legally entitled to the benefits of pay.

11. That, as regards the contents of paragraph 12 of the Written Statement the deponent respectfully reiterates that these are not based on facts, the respondent authority measurably fail to take concrete decision on the question whether Telecom Master's posted ATMs Cadre should be given F.R.22(C) (old) benefits or not and the respondents took about 16 years to take a decision on that. The applicants are not responsible for the delayed decision of the respondent authority and they have approached the Hon'ble Tribunal for redressal of their grievances within reasonable time.

12. That, as regards the contents of paragraph 13 of the Written Statement, the deponent respectfully states that these are not correct. In fact, the ratio of judgment in the case of O.A.No.134/93 and O.A.No.225/94 of Hon'ble Central Administrative Tribunal (vide Annexure-5 & 6) are subsequently applicable to the present applicants.

13. That, as regards the contents of paragraph 14 of the Written Statement, the deponent has no comment thereon.

14. That, as regards the contents of paragraphs 15 & 16 of the Written Statement, the deponent respectfully states that these are not correct. The O.A.'s cited by the applicants has got strong relevancy to the present case - where the petitioners were repeatedly appealing for granting F.R.22(C) benefits to Telegraph Master promoted from Assistant Telegraph Master Cadre and more than 35 cases in the Courts and about a dozen of Tribunals of different States supported this contention through the Department took 15 years time to issue a common order in this subject.

15. That, as regards the contents of paragraphs 17, 18, 19 & 20 of the Written Statement the deponent has no comment to make thereon.

-24-

16. That, as regards the contents of paragraph 21 of the Written Statement, the deponent respectfully states that after dispute arose on fixation of pays of Telegraph Master promoted from Assistant Telegraph Master, all the promotion of Assistant Telegraph Masters were give a general nomenclature as 'Adhoc' Assistant Telegraph Masters, though their regular promotion on Divisional seniority basis was maintained by respective Divisional Heads but no D.P.C was held on Administrative reasons for which the eligible officials should no have suffered. But unfortunately now by showing that Administrative lapses of non-holding of D.P.C. for promotion of TL's to ATM Cadre as if of valid reasons the respondents want to deny the justified benefits of the petitioners, which is most unfortunate part of this case.

17. That, as regards the contents of paragraph 22 of the Written Statement the deponent respectfully states that he has a good case and the Hon'ble Tribunal would be graciously be pleased to grant the relieves sought for the application.

18. That, the statements made in this Re-joinder and in paragraph 1 to 3, 5 to 6, 8 to 11 are true to my knowledge, those made in

paragraph 4 & 7 are matters of records and
the rest are my respectful submission before this
Hon'ble Court.

And I set my hand on this Re-joinder on behalf
of all the applicants, today the 25 day of
January, 2003, at Guwahati.

Identified by:

[Signature]
Advocate's Clerk.

Chinmoy Kumar Deb

DEPONENT

2002 12:35

DGHBSHLSILCHAR.

45966

P.01

GOVERNMENT OF INDIA

DEPARTMENT OF TELECOMMUNICATIONS

OFFICE OF THE SDE (TFC) TELEGRAPH ACTIVITY SUB-DIVISION SILCHAR-1

No. EST-1/FIXN-PAY/99-2000

Dated at Silchar 16/03/2000

To,

✓ Shri S.P. Chakraborty, SDE (HRD)
O/O the GMT Silchar SSA Silchar
788001

Subj:- Fixation of pay from ~~AMM~~ Ad-hoc ATM to LSG (OTBP) - Case of
Shri J.C. Das, CTM, (2) Shri C.K. Deb, Sr. TM, (3) Shri M.C.
Paul, Sr. TM & (4) Shri A. Purkayastha, Sr. TM, DIO Silchar.

Ref:- Your office letter No. E-20/STT/Genl/104 dated 24-02-2000.

The above mentioned officials were imparted 4 week "ON THE JOB" ATM training locally. It appears their Service Book and other ~~xxxx~~ records that they were appointed as ATM ~~and~~ on Ad-hoc officiating basis. But their appointment were not approved by the DFC.

However, their appointment, basis of working, spell etc. as Adhoc ATM are furnished below for ready reference.

PARTICULARS OF APPOINTMENT

1. Shri J.C. Das, CTM:- The official has worked as ATM in Adhoc (Offtg) basis at Airawl DIO for the period of 07-08-82 to 11-10-83 & thereafter at DIO Silchar from 22-10-83 to 30-11-83 i.e. the date of his promotion to LSG (OTBP). (11-10-83)
2. Shri C.K. Deb Sr. TM:- The official has worked as Adhoc ATM (Offtg) at DIO Silchar w.e.f. 01-03-82 to 30-11-83 i.e. the date of his promotion to LSG (OTBP).
3. Shri M.C. Paul, Sr. TM:- The official has worked as ATM Adhoc basis (Offtg) at Kohima & Silchar DFO w.e.f. 01-07-82 to 20-11-83 i.e. the date of his promotion to LSG (OTBP).
4. Shri A. Purkayastha Sr. TM:- The official has worked as Adhoc ATM on officiating ~~ix~~ basis in different spell ~~xxxx~~ at CTO Agartala he has also worked as adhoc ATM (Offtg) at DIO Silchar in several spell officiating basis. The spell were ~~xxxx~~ 27-12-82 to 09-03-83, 01-06-83 to 22-10-83 and 23-10-83 to 30-11-83 i.e. the date of his promotion to LSG (OTBP).

The Service books of the officials alongwith i.e. individual appointment as Adhoc ATM etc. are for for favour of your kind disposal please.

levant records
ed here with

Enclos:- 4 (Four)
Service Books
11 Copied Xerox
Letter

(D.K. Purkayastha)

Sub-Division Silchar 788001
Telephone No. 46833

Copy forwarded to:-

- (1) The ASST J/C DIO Silchar with reference to his office letter No. S-3/Fixation/99-2000 dated at Silchar the 14-03-2000 for infmn.
- (2) O/Copy.

Self
for Unltd. Pay
(Silchar - 788001)
Silchar SSA Unit
(Silchar - 788001)
788001

Confirmed to be
the copy

schuseat

~~Annexure - 1~~

Merger of the cadre of ATMs into that of LSG TMs

[D.G. P&T Letter No. 15-18/81-TE-II dated 17-8-83. ... Our No. T-112]

I am directed to say that in pursuance of the Report of Committee on Telecommunication the question of Merger of the cadre of Asstt-Telegraph Masters into that of LSG Telegraph Masters has been under consideration of this office for some time past.

2. The P&T Board is now pleased to decide that the cadre of ATMs, in the pay scale of Rs. 380-560 may be merged and 85% of the existing sanctioned posts of ATMs may be upgraded to that of LSG Telegraph Masters, in the pay scale of Rs. 425-640. The Heads of Circles may sanction the requisite posts of LSG TMs, to the extent of 85% of the existing sanctioned strength of ATMs under them and abolish the balance 15% posts of ATMs, by reverting, if necessary, the surplus ATMs as Telegraphists against existing/future vacancies of telegraphists.

3. The promotion of ATMs to that of LSG TMs would be on the basis of existing rules. In the case of existing ATMs, who are eligible to be promoted as LSG TMs by virtue of their seniority in Telegraphists, their promotion as LSG TMS straight from the post of ATM would not involve assumption of duties or responsibilities of greater importance. Their pay would be fixed under FR 22 (a) (i) i.e. at the same stage as in the pay scale of Asstt. Telegraph Masters, if that stage is available otherwise, at the lower stage treating the difference as personal pay to be absorbed in future increments.

4. On upgradation of the eligible ATMs to the posts of LSG TMs the incumbents may be given an additional one month's training on Telegraph Traffic instruments as they had already received 2 months training as ATMs.

5. The present pay of such ATMs, who get reverted due to non-availability of LSG TM posts, may be protected by grant of personal pay to be absorbed against future increase in pay. On promotion the pay of such employees should be fixed under normal rules with reference to their pay as Telegraphists.

6. In future the posts of LSG TMs for looking after the work of ATMs, may continue to be sanctioned by Heads of Circles till revised norms are evolved by IWSU/SIU, within their own powers, to the extent of 85% of number of posts/justified as per norms prescribed for ATMs vide this office letter No. 19-20/80-TE-II dated 4-10-80. Such posts will be over and above the 20% functional posts of LSG TMs which will be sanctioned by the Circle. In order to ensure that the 15% reduction is actually made effective while sanctioning the posts of LSG TMs in lieu of posts of ATMs annual review of all the CTOs/DTOs should first be completed and thereafter only additional posts of LSG TMs found justified at 85% of the norms applicable to ATMs should be sanctioned on circle basis.

7. This issue with the concurrence of the P&T Finance vide their U.O. No. 4672/FA-II/83 dated 1-8-83, as approved by M.O.F. (Deptt of Expenditure) U.O. No. F-1926/SE/82 dated 10-8-82.

G.S. Writes—(Contd. from last page)

He visited AMBALA on 26th July 83 to discuss outstanding problems of NW Circle with GMT Shri J.P. Garg. He also addressed well attended meeting of the P&T workers in CTO Compound. He visited Jabalpur and Nagpur on 15th and 16th August 83 after attending M.P. Circle Conference held at Sagar on 14th August 83. He was amongst the activists of Saharanpur Divisions during their conference held at Haridwar (UP) on 25th August 83.

Circle Conference of W.B. Circle is at Asansol from 12th to 15th September 83

Rajkot will host Gujrat Conference in the last week of September 83. Orissa will hold their conference at Cuttack in the month of September 13.

SEPTEMBER 1983

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signature

- 13 - Annexure - 13

INDIAN POSTS AND TELEGRAPHS DEPARTMENT.
OFFICE OF THE GENERAL MANAGER, TELECOM., N.E. CIRCLE: SHILLONG-793001.

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5/11/75
26
All the Heads of C.T.Os/D.T.Os in N.E. Circle. C.S. 614
2) The S.T.Ts/Jorhat/Shillong. STB I 213/4/74
No. STB/MTM-2/T/I. Dated Shillong, the 9/5 January, 1975.

Subject: ASSISTANT TELEGRAPH MASTER'S APPOINTMENTS TO THE
CARE OF.

A copy of P. G. P&T New Delhi letter No. 213/4/74-STB-I dated 7/9-12-74 is sent herewith. You are requested to kindly obtain a declaration from the present incumbents who are working as A.T.Ms, and want to opt unconditionally and voluntarily for the General Manager's understanding that such options would be deemed as final and such options will have no claim in future on the posts of A.T.Ms and forward such options to this office at an early date.



Sub: ASSISTANT TELEGRAPH MASTER'S APPOINTMENTS TO THE CARE OF.

I am directed to invite a reference to this office letter No. 4-8/74-TE dated 9-8-74 under which a new cadre of Assistant Telegraph Masters has been created. The recruitment rules for filling the posts in the newly created cadre of A.T.Ms are yet to be finalised. Pending finalisation of the recruitment rules, it has been decided that such of the present incumbents who are working on the lines may be permitted to do so on the clear understanding that such options would be deemed as final and such options will have no claim in future on the posts of A.T.Ms.

L 485 A.T.Ms., and want to opt unconditionally and voluntarily for

I. T. C. 2/-

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copy of B call for options from all
A.T.Ms & T.Ts trained from B.T.M. post. to
show that they are not interested in
A.T.M. post.

2. The existing and resultant vacancies in the cadre of A.T.Ms may, for the time being, be filled on adhoc basis as per the instructions issued in this office letters No. 1230/2/71-1 dated 12-11-1969, 208/12/69-STB.I dated 6-9-71 and 208/8/69-STB.I dated 29-3-71. Such filling will be made in the following order from amongst eligible telegraphists:-

- (i) Officials who are already selected and trained
 - (ii) Officials who are already selected and could not be trained for administrative reasons
 - and (iii) new volunteers to be selected.
- These appointments will be purely adhoc and these officials will have no claim for continuing against the posts unless they are selected on the basis of new recruitment rules for the cadre of A.T.Ms as and when they are issued. The candidates selected for appointment and who have not been trained will be imparted "on the job" training for four weeks before they are appointed as A.T.Ms. Such training will be job oriented and will be imparted locally at places where these persons are to be appointed and will be imparted by the officer in charge of the Telegraph Office in consultation with the Head of the Circle.

3. The officials so appointed as A.T.Ms on adhoc basis will be allowed to draw pay and allowances as per the new scale prescribed on the basis of the recommendations of 3rd pay Commission.

Sd/-

(K.V.L.KSHM.)

Assistant Director-General (ST)

INDIAN POSTS AND TELEGRAPHS DEPARTMENT
OFFICE OF THE CHIEF SUPERINTENDENT : C.T.C. GAUHATI.

No. STA-12/ATM/150

Dated at Gauhati the 1.1.32.

In pursuance of D.O. P&T New Delhi memo No. 19-20/CO-TE-II dated 4.10.30 conveyed vide C.O.T. N.E. Circle, Shillong letter No. ST/ST-1/Part-3/Locse/22 dated 21.12.31, the following seniormost telegraphists of Gauhati T.T. Division qualified on 4 weeks job training of ATM are promoted as officiating ATM with immediate effect and posted at CTC Gauhati under A.E. Electrical (Indoor), CTC Gauhati in the scale of pay Rs. 340-560/-.

Sl. No.	Name of the officials with designation.	Office to which attached.
1.	Mr A.S. Mahan, Telegraphist	CTC Dooarsa
2.	" R.C. Paul, Telegraphist	CTC Gauhati.

The appointment is purely on ad-hoc basis and this will have no claim for continuing against this post unless they are selected on the basis of new recruitment rules for the cadre of ATM.

The officials so appointed will be allowed to draw pay and allowances on par the new scales prescribed on the basis of 3rd C.P.C.

They should submit charge report.

(Sd/-
(U. Guha)
Chief Superintendent
C.T.C. Gauhati.

Copy to:-

- 1-2 Officials concerned.
- 3-4 PE of the officials thre. S/O-1. R.C. Paul, T.T. C.O. Gu
- 5 T.T. C/O, CTC Dooarsa for information and necessary action
- 6 A.E. Elec. (I/O), CTC Gauhati.
- 7 ACS, CTC Gauhati.
- 8 C.T.C. N.E. Circle, Shillong w.r. to his letter cited above.
- 9 AC(IA), the CMT Shillong w.r. to CMT's letter cited above.
- 10 SS/Accountant, CTC Gauhati.
- 11 Head Clerk, Estb. Sec., CTC Gauhati for entry in S/Books.
- 12 SAT-10/Office file.
- 13 Spere
- 14 C/O.

Confirmed to be

True copy.

Schwartz

(U. Guha)
Chief Superintendent
C.T.C. Gauhati.
and
C.T.C. Gauhati Division
Gauhati, 1.1.32.

(Annexure - 5)

O.A.174/93

All India Telegraph Traffic
Employees Union, Class-III,
Assam Circle.

... Applicant

-VS-

Union of India & Ors.

... Respondents

P R E S E N T

THE HON'BLE JUSTICE SHRI S. HAQUE, VICE CHAIRMAN,
THE HON'BLE SHRI G. L. SANGLYNE, MEMBER (ADMN.).

For the Applicant -
Mr. B.K. Sharma,
Mr. M.K. Choudhury,
Mr. Satyan Sarma.

For the Respondents -
Mr. G. Sarma,
Addl. G.C.S.C.

23.9.93

Learned counsel Mr B.K.Sharma submits on behalf of 56 applicants who are holding post of LSGTM. They are represented by the Vice-President Shri S.C.Chanda of All India Telegraph Traffic Employees Union, Class-III, Assam Circle. Also heard learned Sr.C.G.S.C Mr S.Ali.

The applicants have been promoted from ATM to LSGTM and claim entitlement of pay fixation under F.R.22(C). Mr Sharma submits for disposal of this application granting relief in conformity with the judgment delivered by the Principal Bench and other Benches for employees similarly situated on promotion from ATM to LSGTM. We have perused the following previous judgments :- R.No.T-336/85 (C.T-703/77) of Principal Bench ; (2) O.A.439/90 of Calcutta Bench; (3) O.A.39/90 of Patna Bench; (4) O.A.1334/91, 1297/91, 66/93 and O.A.43/93 of Ernakulam Bench. It was uniformly held that the post of LSGTM involved duties of higher responsibilities than those of ATM and that accordingly, on promotion from ATM to LSGTM, the promotees are entitled to have their pay fixed in the promoted grade under FR 22(C). We fully agree with the said finding. The applicants in the instant case are similarly situated and entitled to similar benefits.



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true copy

Signature

23.9.93

Accordingly this application is allowed and respondents are directed to fix the pay of the applicants in the post of LSGTM by applying the principles of FR 22(C) with all consequential benefits including arrear salary and increments from the date of their promotion to the posts of LSGTM within a period of 60 days from the date of receipt copy of this order.

This application is disposed of with the above order and direction. Inform all concerned.



Sd/- S. Haque
VICE CHAIRMAN

Sd/- G.L. Sanglyine
MEMBER (ADMIN)

Certified to be True Copy

Deputy Registrar (Judicial)
Central Administrative Tribunal
Guwahati Bench

27/7/93

LIST OF APPLICANTS.

<u>Sr. Name of official</u>	<u>Date of effect.</u>	<u>Office in which working/1st worked.</u>	<u>Remarks</u>
1. Sri M.S.Roy	1.6.74	C.T.O.Gauhati	Retired.
2. Mrs Chameli Dutta W/o Late R.L.Dutta	1.6.74	C.T.O.Silchar	Expired on 27.9.82
3. Sri S.N.Chakraborty.	1.6.74	C.T.O.Silchar	Retired.
4. Mrs E.Lyngdoh W/o Late M.S.Roy	1.6.74	C.T.O.Shillong	Expired on 1.5.81
5. Sri N.C.Mallick	1.6.74	C.T.O.Gauhati	Retired
6. Mrs Lakshmi Bale Barman W/o Late B. C. Barman	1.6.74	C.T.O. Gauhati	Expired on 27.12.89
7. Mrs Kalyani Chakraborty W/o Late S.R.Chakraborty	1.6.74	C.T.O.Gauhati	Expired on 17.4.84
8. Sri N.K.Das	1.6.74	C.T.C. Silchar	Retired
9. Mrs Klesidian Mawrie W/o Late R.B.Pugh	1.6.74	C.T.O., Shillong	XXXXXXXXXX Expired on 3.3.1 3.3.89
10. Sri K.B.Bhattacharjee	1.6.74	C.T.O.Agartala	Retired
11. " D. K. Roy	1.6.74	C.T.O.Shillong	
12. " D. K. Dey (I)	1.6.74	C.T.O.Silchar	
13. " D.Thakuria	1.6.74	C.T.O.Gauhati	
14. " N.G.Chakraborty	1.6.74	C.T.O. Gauhati	
15. " H.K.Baruah	1.6.74	C.T.O.Gauhati	Retired
16. Mrs Vandita Kar W/o Late N.J.Kar	1.6.74	C.T.O.Gauhati	Expired on 12.10.87
17. Sri S.P.Bhattacharjee	1.6.74	C.T.O.Dibrugarh	
18. " I. B. Das	1.4.75	C.T.O.Gauhati	
19. " M.K.Nandi	1.4.75	D.T.O.Tinsukia	
20. " B. B. Roy	1.4.75	C.T.O.Shillong	
21. " K.R.Deb	14.6.76	C.T.O.Gauhati	
22. " S.N.Das	1.1.76	D.T.O.Rawangong	
23. " Madan Ch. Das	1.1.76	C.T.O.Gauhati	
24. " J.S.Thymthai	5.2.82	C.T.O.Shillong	
25. " S.R.Singh	11.2.82	C.T.O.Gauhati	Retired.
26. " M. M. Nandi	11.2.82	C.T.O.Gauhati	
27. " H.C.Kumar	11.2.82	C.T.O.Gauhati	
28. " S. C. Chanda	11.2.82	C.T.O.Gauhati	
29. " S.P.Mukherjee	11.2.82	C.T.O.Dibrugarh	
30. " K.K.Nandi	30. 1.82	C.T.O.Gauhati	Retired

Sn.	Name of official	Date of effect	Office in which Working/last worked.	Remarks
31.	Sri R. K. Dey	30.11.83	C.T.O.Gauhati	Retired
32.	" P.K.Bhattacharjee(I)	30.11.83	C.T.O.Gauhati	
33.	" Mukul Chandra Das	30.11.83	C.T.O.Gauhati	
34.	" B.Sarma	30.11.83	C.T.O.Gauhati	
35.	" M.L.Acharjee	30.11.83	C.T.O.Gauhati	
36.	" S.K.Dutta	30.11.83	C.T.O.Gauhati	Retired
37.	" Giridhar Das	30.11.83	C.T.O.Gauhati	Retired
38.	" K.P.Dev	30.11.83	C.T.O.,Gauhati	
39.	" S.K.Choudhury	30.11.83	C.T.O.Gauhati	
40.	" T.K.Saha	30.11.83	C.T.O.Gauhati	
41.	" A.K.Mishra	30.11.83	D.T.O.Bongaigaon.	
42.	" B.M.Purkayastha	30.11.83	C.T.O.Gauhati	
43.	Mrs. Reba Roy W/o Late Benoy Roy	30.11.83	C.T.O.Gauhati	Expired on 13.6.91
44.	Sri S.K.Bhattacharjee	30.11.83	C.T.O.Shillong	
45.	" D. K. Day(2)	30.11.83	C.T.O.Shillong	
46.	" M.K.Bhattacharjee	30.11.83	C.T.O.Shillong	
47.	" A.K.Das	30.11.83	C.T.O.Shillong	
48.	" B. P. Das	30.11.83	C.T.O.Shillong	
49.	" D. K. Choudhury	30.11.83	C.T.O.Agartala	
50.	" B. Deka	30.11.83	C.T.O.Gauhati	
51.	" R. C. Paul	30.11.83	C.T.O.Gauhati	
52.	" B. P. Acharjee	30.11.83	D.T.O.Hailakandi	
53.	Mrs Lila Chakraborty	30.11.83	C.T.O.Agartala	
54.	Sri J.K.Pedder	1.11.75	C.T.O.Shillong	
55.	" B.N.Berkekety	30.11.83	C.T.O.Dibrugarh	
56.	" H. N. Paul	30.11.83	D.T.O.XXX Diphu.	

O.A. 225/94

All India Telegraph Traffic
Employees Union, Class-III,
Assam Circle.

... Applicants

-VS-
Union of India & Ors.

... Respondents

P R E S E N T

The HON'BLE JUSTICE SHRI M.G. CHAUDHARI, VICE CHAIRMAN.

For the Applicants

... Mr. B.K. Sharma,
Mr. A.K. Choudhury,
Mr. S. Sarma.

For the Respondents

... Mr. G. Sarma, Addl. C.G.S.C.

OFFICE NOTE

DATE

COURT ORDER

19.12.94

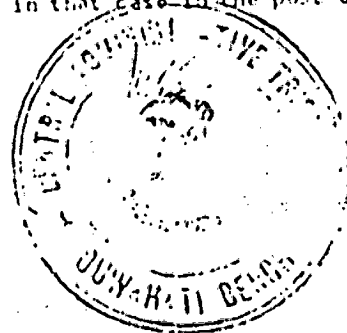
Mr. B K Sharma for the applicant.
Mr. G Sarma, Addl. C.G.S.C. for the
respondents.

Notice before admission was issued to the respondents to show cause as to why the application should not be admitted. No show cause reply has been filed but Mr. G. Sarma the learned C.G.S.C. who appears for the respondents states that relief has already been granted to the applicants as prayed and the application would not survive. However, he is unable to produce the concerned notification. In the circumstances as will be pointed out below only a formal order is required to be passed in this application. It is not therefore necessary to admit the application for the purpose of further hearing and hence it is being disposed of at the admission stage.

By this application the All India Telegraph Traffic Employees Union Class-III prays that the same benefit granted at the instance of the Union to the applicants in O.A. 134/93 decided on 23.7.93 be extended to the 4 members of the Union mentioned at Annexure 1 to the application. Mr. Sharma states that by mistake the word Late has been typed before the name of the fourth person mentioned in the list and the error is regretted.

By the order in O.A. 134/93 the respondents were directed to fix the pay of the members of the Union mentioned in that case in the post of Lower

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19.12.94

Selection Grade Telegraph Master by applying the principle of F.R. 22(C) with all consequential benefits including arrears of salary and increments from the date of their promotion to the post of Lower Selection Grade Telegraph Master.

The applicants aver in para 4.19 of the application that the respondents have expressed their inability to extend the benefit of the order in O.A. 124/93 to the 4 persons whose case is represented in the instant application in the absence of their names being specifically incorporated in that order.

It baffles me as to how the respondents could refuse to extend similar benefit to the persons at Annexure 1 in the present application, as was directed to be extended by this Tribunal to the persons whose names were included in O.A. 124/93 when the persons mentioned in Annexure 1 to the present application are similarly situated and would be eligible to be given benefit on the self-same grounds. It is stated in para 4.20 of the application that the names of the persons mentioned at Annexure 1 had remained to be included in the list of persons in O.A. 124/93 due to inadvertence. It is submitted in para 4.21 of the application that when some principles are laid down in a case the same should be made applicable to all the employees similarly circumstanced without requiring them to approach the Court again.

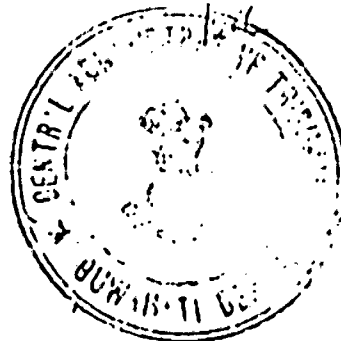
- 22 - 98
OFFICE ORDER

DATE

COURT'S ORDER 115

19.12.94

Mr. written statement has been filed by the respondents. Mr. G. Sarma, the learned Addl. C.G.S.C. stated today that an officer from the office of the respondents one Mr. Rebha had come to the Tribunal in the morning and had shown a notification to him issued by the Government extending the benefit to persons mentioned at Annexure 1 to the application and therefore the application would not survive. We are however sorry to note that the said officer has not chosen to appear at 02-30 P.M. when the matter was fixed nor had left the copy of the notification with the Addl. C.G.S.C. or the Court Officer. It is not therefore available for our reference. This attitude of the concerned officer deserves to be outright deprecated. Surely he cannot expect the Tribunal to dance to his tune. The respondent no. 3 is directed to make enquiry in this respect and take proper action against the said officer and report the same to the Tribunal. If proper explanation is not offered then the Tribunal may be compelled to take further action as it may deem necessary in the matter so as to prevent recurrence of such casual attitude of officers towards the matters in the Tribunal. It is really astounding that despite the fact that not only in the order in O.A. 124/93 but in several other judgements mentioned in that order also same view was taken and even so the respondents had compelled the Union to file this application for relief on the ground that the names of the persons mentioned in Annexure 1



19.12.94

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were not included in the list in O.A. 134/93, if that is true. It is not disputed that the persons presently concerned were eligible for being extended the benefit as directed under the order in O.A. 134/93. The respondents are expected to abide by the ratio of a decision of the Tribunal on the question decided and to extend the benefit thereof to similarly circumstanced personnel without requiring everyone to rush to the Court or Tribunal. By such attitude the respondents would be only adding to the litigation which they are expected to discourage. Had the notification stated to be issued been produced then it would not have been necessary to give this judgement. However, as it is not made available following order is passed :

The respondents are directed to fix the pay of the 4 employees mentioned in Annexure 1 in the instant application in the post of Lower Selection Grade Telegraph Master by applying the principles of F.R. 22(C) with all consequential benefits including arrears of salaries and increments from the date of their promotion to the post of Lower Selection Grade Telegraph Master.

If the same has not so far been done then it shall be done within a period of 60 days from the date of receipt of copy of this order.

The application is accordingly allowed. However there will be no order as to costs. -->

cc: -->

huc

OFFICE NOTE

DATE

COURT'S ORDER

19.12.94 A copy of this order be sent to the respondent no. 3 for bringing to his attention - the observations made in this order in respect of conduct of his officer.

Registered with A/D

Sd/- VICE CHAIRMAN

Case No. : 562

Date : 31/1/95

Copy for information & necessary action to :

- (1) Shri S.C. Chande, Vice President, All India Telegraph Traffic Employees Union, Class-III.
- (2) The Secretary, Govt. of India, Ministry of Communication, New Delhi.
- (3) The Director General, Telecommunication, New Delhi - 1.
- (4) The Chief General Manager, Telecommunication, Assam Circle, Guwahati-7.
- (5) The Chief General Manager, Telecommunications, N.E. Circle, Shillong.



SECTION OFFICER (JI)

30/1/95

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LIST OF PERSONS PROMOTED AND
SISTER OF THE APPOINTMENT

Sl. No.	Name	Date of effect of promotion as TM from	Office in which working/last worked	Remarks
1.	Mrs. D. Bhattacha- rjee.	21.5.82	DAU, Karimganj	Retired
2.	Shri N. C. Chakra- borthy	30.11.83		
3.	Shri J. N. Baruah	30.11.83	Jorhat	Retired
4.	Late Anu Borthakur	30.11.83		Retired
	W/O Late T. Borthakur			

...

100-