

10

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 44 of 1994.

Date of Order : This the 19th Day of March, 1997.

Justice Shri D.N.Baruah, Vice-Chairman.

Shri G.L.Sanglyine, Administrative Member.

1. Sri Hrishikesh Biswas,
T.S.Clerk, Gr.III (SSO)
2. Sri Durgeswar Das,
T.S.Clerk, Gr.III (SSO)
Office of the Telecom. District Manager,
Guwahati. . . . Applicants

By Advocate Shri B.Malakar.

- Versus -

1. Union of India represented by
Chief General Manager,
Assam Telecom Circle,
Navin Nagar, Guwahati.
2. The Chief General Manager,
Assam Telecom Circle,
Guwahati.
3. The Telecom.District Manager,
Guwahati. . . . Respondents

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

O R D E R

BARUAH J (V.C)

These two applicants being aggrieved at the fixation of the seniority have approached this Tribunal with prayer for direction to the respondents to fix their seniority in accordance with law.

2. Facts for the purpose for disposal of this application may be narrated thus: The applicant No.1 was appointed Telecom Office Assistant on 9.4.63. The applicant No.2 was appointed on 12.7.63. They were provisionally confirmed as Telecom Office Assistant on 1.3.65. At that time according to the applicants, there were 20 permanent posts of Time Scale Clerk. The Government had sanctioned 13 posts and in

contd.. 2

812

total there were 35 posts. Out of that 35 posts 18 T.S. Clerks had been confirmed against the posts that existed on 1.1.69. But later to that date on 27.6.92 the Divisional Engineer (Planning & Administration), office of the Telecom District Manager, Guwahati issued an order whereby the confirmation was finally made in case of applicant No.1 on 10.4.63 and in case of applicant No.2 on 12.7.63. While making such final confirmation the grievance of the applicants is that some junior persons had been placed above them. The applicants feel that ~~the action of~~ the respondents specifically the 3rd respondent acted arbitrarily, unreasonably and unfairly in preparing the seniority list. The applicants further state in the application that one Shri S.C.Chakraborty was confirmed on that day alongwith the applicants even though the applicants were appointed much earlier ^{than} him. Besides, the applicants also state in para 6(v) that other Time Scale Clerks viz Shri A.K.Bhattacharj B.N.Bhattacharjee, A.Choudhury and S.C.Chakraborty were appointed much later than the applicants. They were also placed above the applicants and thereafter promoted to Selection Grade. The applicants are aggrieved by the action of the respondents. Hence the present application.

3. The respondents have filed written statement. While replying to the averments made in para 6(iii) and 6(v) the respondents have not disputed the said averments. In para 4 and 6 of the written statement the respondents have simply stated that they have no comments, it relates to record. They have further stated that the provisional confirmation order was scrutinised by the Chief General Manager, Telecom, Guwahati and directed the Divisional Engineer, office of

the Telecom District Manager, Guwahati to withdraw the order of provisional confirmation. But in para 6(iii), (iv) and (v) of the application the applicants have categorically stated that their juniors mentioned in the said para (v) had been put above them. In para 6 the respondents have not answered to the averments made.

4. We have heard Mr B.Malakar, learned counsel appearing on behalf of the applicants and Mr S.Ali, learned Sr.C.G.S.C for the respondents. We have also perused the application as well as the written statement. Though in para 5 of the written statement while answering to para 6(iv) of the application the respondents have simply stated that the date of appointment and confirmation without saying anything regarding the appointment of S.C.Chakraborty, who was much junior to the applicants.

5. The records have not been produced by the respondents though the respondents have relied on the records for reasons best known to them. In Annexure-A appointment letter it clearly shows that Sri S.C.Chakraborty was appointed much later than the dates of appointments of the applicants. Why his position was placed above has not been explained. Regarding other averments in para 6(v) also the respondents have not shown any reason as to why those junior persons were put above the applicants. Mr Malakar, learned counsel for the applicants have submitted that the entire action of the respondents in preparing the seniority list is vitiated by non compliance of the relevant provisions of rule in preparing the seniority list. The learned Sr.C.G.S.C Mr Ali also has not been able to justify the action of the respondents. Considering the averments made in the application


contd... 4

82

and the stands taken by the respondents in their written statement and on hearing the counsel, we are of opinion that the impugned seniority list as such cannot sustain in law. We feel that it requires reconsideration. Therefore, we dispose of the application with direction to the respondents to consider the seniority strictly in accordance with the rules and prepare a fresh seniority list. While preparing the seniority list, the persons junior to the applicants, according to them should, also be given an opportunity for making representation before preparing the seniority list in view of the fact that they are not made party in this application. This must be done as early as possible and at any rate within a period of six months from the date of receipt of the copy of this order.

Considering the entire facts and circumstances of the case, we however make no order as to costs.


(G.L.SANGLYNE)
ADMINISTRATIVE MEMBER


(D.N.BARUAH)
VICE CHAIRMAN