

Central Administrative Tribunal, Principal Bench

Original Application No. 1224 of 2003  
M.A. No. 1084/2003

New Delhi, this the 29th day of October, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman  
Hon'ble Mr. S.A. Singh, Member (A)

1. Shri Rama Nand S/o Shri Sukhi Singh  
Radio Telephone Operator,  
Under Chief Fire Officer,  
Delhi Fire Service,  
Govt. of N.C.T. of Delhi,  
Connaught Lane,  
New Delhi-1
2. Jagtar Singh Gill S/o late Shri A.S. Gill,  
R/o 330, Jamia Apptt. Sector-13  
Rohini, Delhi-85
3. Rajesh Kumar S/o late Shri Kabool,  
R/o H.No.49, Prithvi Raj Lane, Khan Market,  
New Delhi-3
4. Shri H.J. Singh S/o Shri Joginder Singh  
R/o 2/11, MCD Flats, NDSC Part-II  
New Delhi-19
5. Anoop Kumar Sharma S/o late Shri M.L. Sharma,  
R/o CB-17, Clock Tower Hari Nagar,  
New Delhi
6. Mahak Singh S/o late Shri Ilam Chand,  
R/o B-185, Gali No.2, Sadatpur Extn.  
Shahdara, Delhi-94

.... Applicants

(By Advocate: Shri B.S. Mainee)

Versus

1. The Chief Secretary,  
Govt. of NCT of Delhi,  
5, Sham Nath Marg,  
New Delhi.
2. The Secretary (Home),  
Govt. of NCT of Delhi,  
Delhi Secretariat,  
I.P. Estate, New Delhi
3. The Chief Fire Officer,  
Delhi Fire Service,  
Govt. of NCT of Delhi,  
Connaught Lane,  
New Delhi

.... Respondents

(By Advocate: Ms. Jasmine Ahmed)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

The applicants were working as Telephone Operators. A decision had been taken by the respondents on 24.2.84 to merge the cadre of Telephone Operators with Radio Telephone Operators. The operative part of the said order reads:

"As per the approval of the reorganisation scheme of wireless and communication system vide Corporation Resolution No.570 dated 10.10.83, the Telephone Operators working in the Hqrs. Control are to be converted as Radio Telephone Operators after imparting training.

The training will be conducted at Hqrs. D.F.S. for a period of two months at the rate of 2 hours daily from 12.00 to 14.00 hrs. w.e.f. 5th March, 1984. Keeping in view the service exigencies, the training will be conducted in two batches. The names of first batch are given in Annexure."

2. The 5th Central Pay Commission, in order to avoid the problem of stagnation and hardships faced by the employees due to lack of channel of promotion, had suggested financial upgradation to be awarded. In pursuance thereto, the Assured Career Progression Scheme had been enforced and those employees who have served for 12 years without any promotion, were awarded the financial upgradation in the next higher scale and similar upgradation on completion of 24 years of service. The applicants claim the said benefit which has been denied to them.

3. Respondents' plea is that all the posts of Telephone Operators were converted as Radio Telephone

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Operators with the condition that they should have completed five years of regular service. According to them, the scale of the Telephone Operators was Rs.260-400 while that of the Radio Telephone Operators Rs.380-560 and that the applicants had been promoted as Radio Telephone Operators and, therefore, they are not entitled to the benefit of the ACP Scheme.

4. Promotion and merger of cadre are two words operating in different spheres. Promotion from one post to another would only be subject to ~~specifying~~ <sup>atisfying</sup> certain basic qualifications, at times educational qualifications and can be based on the service records. So far as conversion of the posts is concerned, it is done in exercise of the powers with the Government to consider the exigencies and convert number of posts or merge them into some other post subject to certain conditions.

5. What is the position in the facts of the present case? We have already reproduced above the order which clearly indicates that the posts of Telephone Operators to which the applicants were working, were converted as Radio Telephone Operators. It was not a promotion made. Even the rigours of promotion were not undergone. Therefore, it cannot be termed that the applicants had been promoted.

6. Once the applicants had not been promoted, necessarily their regular service has to be counted and the ACP Scheme benefits must be accorded to them in accordance

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with the decision.

7. Resultantly, we allow the present application and direct the respondents to consider the applicants for grant of first financial upgradation in accordance with the ACP Scheme.

  
( S.A. Singh )

Member (A).

  
( V.S. Aggarwal )  
Chairman.

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