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Central Administrative Tribunal, Principal Bench

**Original Application No.2513 of 2003
M.A.No.2168/2003**

New Delhi, this the 16th day of October, 2003

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

1. T.S. Krishnamurthy (Staff No. 87315)
Aged 51 years
E-112, Nanakpura,
New Delhi-21
2. Vinay Mohan Gupta (Staff No. 87895)
Aged 44 years
A-4/2, Ranapratap Bagh,
New Delhi
3. P.C. Chadha (Staff No. 81508)
Aged 53 years
MIG-A-36, Pocket 00
Sector-2, Rohini,
Delhi-85
4. D.B. Chopra (Staff No. 88650)
Aged 43 years
136-A, Pocket-1, Mayur Vihar Ph-1
Delhi-91
5. Ishwar Dass Arora (Staff No. 87486)
Aged 47 years
807/E, Gautam Gali,
Lohia Marg, Babarpur,
Shahdara, Delhi-32
6. R. Ramachandran (Staff No. 83134)
Aged 49 years
74, 3rd Floor, Arjun Nagar,
New Delhi-29

.... Applicants

(By Advocate: Shri Arun Bhardwaj)

Versus

1. Union of India
through its Secretary,
Department of Telecommunications,
Sanchar Bhawan,
20, Ashoka Road,
New Delhi-1
2. The Secretary,
Department of Personnel & Training,
Government of India,
North Block, New Delhi-1
3. The Secretary,
Department of Pension & Pensioners' Welfare,
Government of India,
Lok Nayak Bhavan,
New Delhi-3

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4. The Chairman-cum-Managing Director,
Mahanagar Telephone Nigam Limited,
Jeevan Bharti Building,
Connaught Circus,
New Delhi-1.

.... Respondents

(By Advocate: Shri M.M. Sudan)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

M.A. 2168/2003

M.A. is allowed subject to just exceptions.
Filing of the joint application is permitted.

O.A. 2513/2003

By virtue of the present application, the applicants seek a direction to declare ⁱⁿ the circular calling for option from Group 'B' officers for permanent absorption that persons like the applicants who opt for absorption in Mahanagar Telephone Nigam Limited (MTNL) from 1.10.2000 shall be governed by Rule 37-A of Central Civil Service (Pension) Rules, 1972 (CCS (Pension) Rules, 1972) as inserted vide Central Civil Service (Pension) Amendment Rules, 2000 to enable them to make an informed choice. They seek setting aside of the letter of 4.9.2003 contending that the communication does not take into account the judgement of this Tribunal dated 23.4.2003 in O.A.No.1321/2002 in regard to applicability of Rule 37-A of CCS (Pension) Rules, 2002.

2. On an earlier occasion, O.A.593/2002 had been filed. On 28.2.2002, this Tribunal had disposed of the

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petition directing the respondents to furnish to the applicants in that petition the necessary clarifications as expeditiously as possible and preferably within three weeks from the date of receipt of the said order and that no final decision should be taken on the question of exercise of option by the applicants.

3. Thereafter the applicants preferred O.A.1321/2002. It was decided by this Tribunal on 23.4.2003. In that petition a declaration was claimed that so far as pensionary benefits are concerned, the applicants who opt for absorption in MTNL shall be governed by Rule 37-A of CCS (Pension) Rules, 1972 as inserted vide CCS (Pension) Amendment Rules, 2000. This Tribunal had disposed of the said petition with the following directions:

"In the above view of the matter, the OA succeeds and is accordingly allowed. The impugned order dated 8.4.2002 is quashed and set aside and it is directed that provisions of Rule 37-A inserted in the CCS (Pension) Rules w.e.f. 13.9.2000 are directed to be applicable in the case of all those like the applicants who have not been absorbed in MTNL till that date."

4. The present grievance of the applicants is that options are being called from them without referring to the direction of this Tribunal which we have reproduced above.


5. Our attention has been drawn towards the letter that has been so issued calling for options from different officers. Copy of the same is at Annexure 1.


6. It is true that in the letter calling for the

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option, reference to the fact that has been decided by this Tribunal has not been made but perusal of the operative part of the order passed by this Tribunal clearly shows that in plain and unambiguous language this Tribunal has held that provisions of Rule 37-A inserted in CCS (Pension) Rules with effect from 30.9.2000 shall be applicable in case of all the persons like the applicants. Therefore, once there is such a direction, it need not have to be so specifically stated in the options that have been called. The apprehension consequently of the applicants of prejudice in this regard is unfounded. We make it clear that it is a decision of the Co-ordinate Bench. We will not challenge the correctness of the same but we make it clear that the abovesaid finding is subject to the right of the respondents to challenge the said order of this Tribunal regarding which we have not expressed any opinion.

Q.A. is disposed of.


(S.A. Singh)
Member(A)


(V.S. Aggarwal)
Chairman

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