

(2013) 07 DEL CK 0355

In the Delhi High Court

Case No : R.P. No. 333 of 2013 in WP (C) 4639 of 2012

Parmanand Lal

APPELLANT

Vs

Secretary, Deptt. of Telecommunications

RESPONDENT

Date of Decision : 25-07-2013

Acts Referred:

Citation : (2013) 07 DEL CK 0355

Hon'ble Judges : Veena Birbal, J;Pradeep Nandrajog, J

Bench : Division Bench

Advocate : Jyoti Singh, Instructed by Ms. Saahila Lamba in Person, for the Appellant; R.V. Sinha, R.N. Singh and Mr. Pradeep Kumar, for the Respondent

Final Decision : Disposed Off

Judgement

Pradeep Nandrajog, J.—Vide judgment dated January 11, 2013 we had allowed the writ petition filed by the petitioner in the following terms:-

36. In view of above discussion, we direct the respondents to treat the petitioner to have been inducted in the Indian Telegraph Service Group-A (now known as Indian Telecommunications Service Group-A) in the grade of Senior Time Scale on regular basis with effect from March 14, 1991 and determine the eligibility of the petitioner for further promotions on said basis. The petitioner would be entitled to all consequential benefits including arrears of pay and upon superannuation the pension with respect to the salary he would have earned in the promotional post.

It would be relevant to note paragraphs 28 and 33 of our judgment dated January 11, 2013, which read as under:-

28. But before that as directed by the High Court of Judicature at Allahabad and the Supreme Court, treating him to have been promoted to the grade of Assistant Engineer with effect from May 12, 1997 the respondents inducted the petitioner in the Indian Telegraph Service Group-A in the grade of Senior Time Scale on July 9, 1990 on ad-hoc basis. On March 14, 1991 the petitioner was

regularized in the grade of Senior Time Scale.

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33. When the Supreme Court quashed the reversion order dated February 4, 1993 and ordered that the petitioner shall be deemed to have been promoted to the grade of Assistant Engineer with effect from May 12, 1977, the action of the respondents of inducting the petitioner in the Indian Telegraph Service Group-A in the grade of Senior Time Scale treating the date of promotion of the petitioner to the grade of Assistant Engineer as May 12, 1977 prior to passing of the reversion order dated February 4, 1993 stood revived. Thus, as a necessary corollary to the order to the order dated April 26, 2000 passed by the Supreme Court, the respondents should have (again) inducted the petitioner in the Indian Telegraph Service Group-B in the grade of Senior Time Scale on regular basis with effect from March 14, 1991.

2. By the present petition, the respondents are seeking review of the judgment dated January 11, 2013 on the ground that a factual error has crept in paragraph 28 of said judgment.

3. It is argued by the counsel appearing for the respondents/review applicant that we had incorrectly recorded in paragraph 28 of the judgment that the ad-hoc promotion of the petitioner in the grade of Senior Time Scale was regularized on March 14, 1991. Counsel argues that vide order dated July 05, 1990 the petitioner was promoted in the grade of Senior Time Scale (DET) on ad-hoc basis, (temporarily) transferred to the post of AGM (RE), New Delhi and posted to RRCC, New Delhi and it was temporary transfer of the petitioner to the post of AGM (RE), New Delhi which was regularized vide order dated March 14, 1991 and not the ad-hoc promotion of the petitioner in the grade of Senior Time Scale. Counsel further argues paragraph 33 which forms the basis of conclusion arrived by us in the judgment dated January 11, 2013 is a sequitur to paragraph 28, which paragraph incorrectly records that the ad-hoc promotion of the petitioner in the grade of Senior Time Scale was regularized on March 14, 1991. Counsel argues that since a material error has crept in the judgment dated January 11, 2013 the same requires to be reviewed.

4. The relevant portion of the order dated March 5, 1990 issued by the respondents reads as under:-

The Chief General Manager, Northern Telecommunication Region, New Delhi is pleased to issue the following promotion, posting and Transfer orders in the grade of DEsT with immediate effect.

Officers promoted in para-A above from Sl. No. 1 to 10 are purely on Ad-hoc basis and temporary basis. Officers promoted will be reverted on the expiry of this local arrangement. Their transfer will be treated as temporary transfer."

(Emphasis Supplied)

5. The afore-noted order dated March 5, 1990 is a most strange and confusing order inasmuch as it speaks of: (i) promotion, (ii) posting and (iii) transfer; all at the same time. Is it that the order has been issued post promotion concerning the place where the person would be working on promotion?

6. The relevant portion of the order dated March 14, 1991 reads as under:-

The Chief General Manager, North Telecom Region New Delhi is pleased to regularize the temporary transfers in respect of following AEs and ADETs officiating as DEs from the date and station mentioned against each as they have completed 180 days at the same station.

(Emphasis Supplied)

7. A perusal of the record of the case reveals that one Mr. Chavi Nath, (name sometimes spelt as Chabbi Nath) who was junior to the petitioner (as apparent from the order dated July 5, 1990 noted by us above) was inducted in the Indian Telegraph/Telecommunications Service Group-A in Senior Time Scale on the basis of old Recruitment Rules i.e. Indian Telegraph Service Group-A Recruitment Rules, 1966 and was promoted to Junior Administrative Grade (next promotional post) in the month of May, 2001. (The same is apparent from the order dated May 28, 2001 issued by the respondents which is at page 45 of the writ petition).

8. A reading of the judgment dated January 11, 2003 would show that the respondents had inducted the petitioner in the Indian Telegraph/Telecommunications Service Group-A in Junior Time Scale on the basis of new Recruitment Rules i.e. Indian Telegraph Group-A Service Recruitment Rules, 1992. The conclusion arrived by us in the January 11, 2013 was that the respondents had committed an error in inducting the petitioner in the Indian Telecommunications Service Group-A in Junior Time Scale and that they ought to have inducted the petitioner in said service in Junior Time Scale.

9. The fact that whether the ad-hoc promotion of the petitioner in the grade of Senior Time Scale was regularized on March 14, 1991 or not would make no difference to the afore-noted conclusion arrived by us in the judgment dated January 11, 2013 simply for the reason the respondents had inducted the junior of the petitioner namely Mr. Chavi Nath, in Indian Telegraph/Telecommunications Service Group-A in the Senior Time Scale on the basis of 1966 Recruitment Rules. Having inducted the junior of the petitioner in the Indian Telegraph/Telecommunications Service Group-A in the Senior Time Scale on the basis of 1966 Recruitment Rules it was not open to the respondents to have inducted the petitioner in the Indian Telegraph/Telecommunications Service Group-A in the Junior Time Scale on the basis of 1992 Recruitment Rules. The fact of the matter is that the petitioner is entitled to be inducted in the Indian Telegraph/Telecommunication Service Group-A in Senior Time Scale from the date an officer junior to him was inducted in said service.

10. In view thereof, the directions contained in paragraph 36 of the judgment

dated January 11, 2013 needs only a slight modification, we do accordingly. Para 36 of the judgment dated January 11, 2013 shall stand replaced as under:-

36. In view of above discussion, we direct the respondents to treat the petitioner to have been inducted in the Indian Telegraph Service Group-A (now known as Indian Telecommunications Service Group-A) in the grade of Senior Time Scale on regular basis with effect from the date an officer junior to him was inducted in said service and determine the eligibility of the petitioner for further promotions on said basis. The petitioner would be entitled to all consequential benefits including arrears of pay and upon superannuation the pension with respect to the salary he would have earned in the promotional post.

The review petition is disposed of in terms of paragraph 11 above.