

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **WRIT PETITION (CIVIL) No. 7601/2015**

% **Reserved on:** 10th May, 2016
Date of Decision: 19th May, 2016

TELECOM REGULATORY AUTHORITY OF INDIA....Petitioner
Through Mr. Maninder Singh, ASG with Mr. Saket Singh, Advocate.

Versus

DINESH SINGH DHANIK & OTHERSRespondents
Through Mr. R.N. Singh & Mr. Amit Singh, Advocates
for respondent No. 1.
Mr. J.S.Bhasin & Ms. Rashmi Priya, Advocates for
respondent No. 2-UOI.
Mr. Anuj Aggarwal & Mr. Shubhanshu Gupta,
Advocates for respondent No. 3.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MR. JUSTICE NAJMI WAZIRI

SANJIV KHANNA, J.

Telecom Regulatory Authority of India (TRAI, for short) by this writ petition impugns order dated 25th May, 2015 passed by the Principal Bench of the Central Administrative Tribunal, New Delhi (Tribunal, for short) in OA No. 1030/2014.

2. The aforesaid OA was filed by Mr. Dinesh Singh Dhanik, respondent No. 1 before us, who claims that he is senior to Ms. P. Janki, respondent No. 4 in the post of Section Officer (Hindi). Ms. P. Janki, the

fourth respondent before us has not challenged the impugned order dated 25th May, 2015 passed by the Tribunal holding that the first respondent is senior to her.

3. The relevant facts are rather circumscribed, but do require elucidation. They are:-

(a) The fourth respondent Ms. P. Janki was appointed as an Assistant in the TRAI in the year 2001.

(b) On 1st January, 2009, she was promoted as Section Officer (Hindi) in Pay Band-2 (Rs.9300-34800), with Grade Pay of Rs.4600.

(c) The first respondent-Dinesh Singh Dhanik had joined Central Reserve Police Force (CRPF) at the post of Inspector/Hindi Translator on 25th April, 2005 in the pay scale of Rs.6500-10500 revised to Rs.9300-34800 in Pay Band-2 with Grade Pay of Rs.4600 with effect from 1st January, 2006 on implementation of the Sixth Pay Commission.

(d) TRAI by advertisement/notification dated 1st March, 2011 had invited applications for filling up posts of Section Officer (Hindi) on deputation/foreign service terms in PB-2 (Rs.9300-34800) with Grade Pay of Rs.4600 from officers of Central Government, Public Sector Undertakings and statutory and autonomous bodies; (i) holding equivalent post on regular

basis or (ii) having six years of regular service in the grade of Assistant in

PB-2 (Rs.9300-34800) plus Grade Pay of Rs.4200 or equivalent; and (iii) those having knowledge of computer and possessing adequate experience of translation from English to Hindi and vice-versa. Preference was to be given to officers having experience of translation in scientific and technical departments. The period of deputation was two years.

(e) The first respondent applied and was appointed as Section Officer (Hindi) on deputation for two years. The application specifically stated that the said respondent was working at the post of Inspector/Hindi Translator on regular basis in the Pay Band of Rs.9300-34800 and Grade Pay of Rs.4600 with effect from 25th April, 2005. The first respondent was interviewed and thereafter selected for the post of Section Officer (Hindi) on deputation basis in PB-2 (Rs.9300-34800) plus Grade Pay of Rs.4600. The first respondent joined and was to remain on deputation for a period of two years.

(f) By office order dated 30th August, 2011, the first respondent was granted deputation (duty) allowance @ 5 % of the basic pay, subject to a maximum of Rs.2000/- per month. This was on account of the fact that the first respondent was drawing the same pay in his parent department, i.e., Grade Pay of Rs.4600 in PB-2.

(g) The first respondent subsequently expressed his willingness for permanent absorption in TRAI. By letter dated 21st May, 2013, TRAI advised the first respondent to tender his resignation in CRPF and that he would be absorbed in TRAI immediately after acceptance of his resignation and release by the parent office. Paragraph 4 of the said letter is relevant and reads as under:-

“4. Shri Dinesh Singh Dhanik may please take note that on absorption his service in TRAI will be governed by TRAI (Officers & Staff Appointment) Regulation 2001 and TRAI (Salary, Allowances and other conditions of services of officers and employees) Rules, 2002, as amended from time to time.”

(h) The first respondent tendered his technical resignation effective from 2nd July, 2013 as per office order issued by CRPF on 19th July, 2013. This order notes that the first respondent had tendered the said technical resignation on permanent absorption as Section Officer (Hindi) in TRAI also with effect from 2nd July, 2013.

4. Consequent thereto, TRAI issued office order No. 3/2013-14 No. 21 dated 23rd July, 2013 affirming that the first respondent has been appointed in the grade of Section Officer in PB-2 (Rs.9300-34800) plus Grade Pay of Rs.4600 in TRAI on permanent absorption basis with effect from the forenoon of 2nd July, 2013.

5. Immense reliance has been placed by the petitioner on the office order dated 23rd July, 2013 written by TRAI. The said document reads as under:-

“Consequent upon grant of No Objection Certificate for permanent absorption of Shri Dinesh Singh Dhanik [No.921860105] Inspector/Hindi Translator of Central Reserve Police Force (MHA) in TRAI by DIG, CRPF, New Delhi letter No. D.I.1/2011-Min. (D.S.) dated 26th June, 2013, approval of the competent authority in TRAI is conveyed for appointment of Shri Dinesh Singh Dhanik in the grade of Section Officer in PB-2 Rs.9300-34800 + Grade Pay Rs.4600 in TRAI on permanent absorption basis with effect from the forenoon of 2nd July, 2013.”

Relying upon the said document, the wording of the said document and specially the words “on permanent absorption basis with effect from forenoon of 2nd July, 2013”, it was submitted on behalf of the petitioner that the first respondent’s seniority is to be counted from the date of regular absorption on 2nd July, 2013 and, therefore, the said respondent would be junior to the fourth respondent, who was promoted as Section Officer (Hindi) on regular basis on 1st January, 2009. In other words, the contention is that in terms of the office order dated 23rd July, 2013, the first respondent was pertinently denied seniority on the basis of service rendered by him as Inspector/Translator in his parent department, i.e., CRPF. Our attention was also drawn to office notings in the files of the petitioner, which are to the following effect:-

“2. Shri Dinesh Singh Dhanik was holding the post of Inspector/Hindi Translator in Central Reserve Police Force (MHA) from which post he came on deputation to TRAI as Section Officer (Hindi), which is a higher post as compared to that of Inspector/Hindi Translator. Therefore, in terms of TRAI (Officers and Staff Appointment) Regulation 2001, his seniority in the post of Section Officer would be fixed from the date of his permanent absorption in TRAI i.e. below all Section Officers already borne on the TRAI cadre.”

3. In view of the foregoing, kind approval of Chairperson, TRAI may be solicited for appointment of Shri Dinesh Singh Dhanik in the grade of Section Officer [PB-2 Rs.9300-34800 + GP Rs.4600] in TRAI cadre on permanent absorption basis wef the forenoon of 2nd July, 2013.”

6. It was submitted that the first respondent had clearly understood that his seniority would be counted from the date of permanent absorption as is also apparent from his letter dated 17th April, 2013 by which he had made a request for permanent absorption in TRAI. The relevant portion of the said letter reads as under:-

“4. Sir, it is pertinent to mention here that I have been working in the same pay scale of CRPF (Inspector) (i.e., Rs.9300-32500 Group B ‘GP 4600/-) since April, 2005 (i.e. from last 8 years) in TRAI and possess a Masters’ Degree (MA HINDI) with about 21 years of experience of relevant field i.e. translation in English to Hindi & vice-versa and implementation of OL Policy as well as in Administration/Personnel. TRAI had appointed me as Section Officer (Hindi) w.e.f. 07/07/2011, keeping in view my aforesaid qualifications. Hence, I can be considered eligible for the post of Section Officer (Hindi) on the same criteria i.e. having completed more than 08 years service in the

same pay scale of Section Officer (i.e. Rs.9300-32500 Group B 'GP 4600/-').”

7. Lastly, our attention was drawn to Regulation 11(iia) of the Telecom Regulatory Authority of India (Officers and Staff Appointment) Regulation 2001 (2001 Regulation, for short) which stipulates that appointing authority may from time to time by an appropriate order make appointments on permanent absorption basis of any person already appointed on deputation, subject to certain conditions. Regarding *inter se* seniority of those taken on deputation and then absorbed, viz., others in the same grade, Regulation 11 (iia) of the 2001 Regulation postulates:-

“In the case of a person who is initially taken on deputation and absorbed later, his seniority in the grade in which he is absorbed will normally be counted from the date of absorption. If he has, however, been holding already (on the date of absorption) the same or equivalent grade on regular basis in his parent department such regular service in the grade shall also be taken into account in fixation of his seniority, subject to the condition that he will be given seniority from:-

- (a) the date he has been holding the post on Deputation, or
- (b) the date from which he has been appointed on a regular basis to the same or equivalent grade in parent department, whichever is earlier.

Provided that the fixation of seniority of a transferee in accordance with the above principles will not, however affect any regular promotions to the next higher grade made prior to the date of such absorption.”

8. The submission made on behalf of the petitioner is that as per the first sentence of Regulation 11(iia) the appointing authority can impose a condition that the seniority of a person taken on deputation and subsequently absorbed will be counted from the date of absorption and the earlier period would not be counted. This is the normal rule and the said rule was adopted and applied at the time of absorption of the first respondent. The second sentence in Regulation 11(iia) would not be applicable, for at the time of permanent absorption of the first respondent, he was specifically told that the absorption would be with effect from 2nd July, 2013.

9. We have no hesitation in rejecting the said contentions as being far-fetched and untenable. We have quoted above paragraph 4 of the letter dated 21st May, 2013 by which the petitioners had informed the first respondent that the first respondent's request for permanent absorption in TRAI had been considered favourably and that he would be absorbed immediately after his resignation and release from CRPF. Paragraph 4 of the said letter specifically states that on absorption, the fourth respondent would be governed by the 2001 Regulations and TRAI (Salary and Allowances and Other Conditions of Service of Officers and Employees) Rules 2002 as amended from time to time. This letter did not stipulate and specify that the first respondent's seniority would be counted from the date

he is permanently absorbed as Section Officer (Hindi) and that his past service as Inspector/Hindi Translator in CRPF would not be counted. Neither do we find any such wording or statement in the office order No. 3/2013-14 No.21 dated 23rd July, 2013. Use of the expression “permanent absorption basis with effect from the forenoon of 2nd July, 2013” is a mere narration of the facts, which is true and correct. It is difficult to accept the contention of the petitioners that the said factual narration also means that the first respondent would be entitled to seniority with effect from 2nd July, 2013. This has not been so stated in the letter and cannot be inferred as suggested. The contention of the petitioners adds several words and attributes meaning to the said communication, which is impermissible and wrong.

10. We have quoted above the office noting relied upon by counsel for the petitioner. This, we observe, cannot bind the first respondent and at best it can be treated as an opinion of someone in the office. The said opinion records that the post of Inspector/Hindi Translator in CRPF was a lower post and the post of Section Officer (Hindi) in TRAI was a higher post. This reasoning or ratio forms the basis of the conclusion that in terms of the 2001 Regulations seniority of the first respondent at the post of Section Officer (Hindi) would be fixed from the date of his absorption in TRAI, below all Section Officers already borne in the cadre of Section

Officers (Hindi). Nowhere does the said note indicate or reflect, as suggested by the petitioner, that TRAI had at the time of absorption decided to invoke the general rule of seniority mentioned in the first sentence of Regulation 11(iia) to the exclusion of the principle that prior service rendered in the equivalent post would be counted. The submission made can therefore be read as contrary to the file noting. We cannot read the said fiction and words into the said office noting. The aforesaid notings form a part of Annexure-9 filed in this Court on 27th July, 2015. Earlier notings indicate that a committee of three persons was set up to consider the case of the first respondent for absorption to the post of Section Officer (Hindi). The first respondent had conveyed his acceptance to the Chairman, TRAI, the appointing authority, on 15th May, 2013. The Selection Committee subsequent to approval by the authority, had asked the first respondent to submit his technical resignation clearly indicating the date on which he wished to be released from his parent department. The file was accordingly processed and the technical resignation of the first respondent was forwarded to CRPF. Letter dated 26th June, 2013 from the CRPF conveys their 'no objection' for permanent absorption of the first respondent in TRAI. Thereafter, approval of the Chairman was sought for permanent absorption of the first respondent with effect from the forenoon

of 2nd July, 2013. The note quoted above is the last note after the first respondent had already tendered his resignation to CRPF.

11. We also have no hesitation in holding and recording that the petitioner is misrepresenting Regulation 11 (iia) of the 2001 Regulations quoted above. The Regulation does not give an option to TRAI to apply either the general principle or the exception. It is a rule, which is mandatory and does not bestow options to the TRAI. Where the general principle is applicable, TRAI is bound to follow the said principle. However, where an employee is entitled to the benefit of the exception, then his past service would be counted. To accept the contention of the petitioner would mean giving unguided and unhindered power to TRAI to decide when the general principle or exception would apply. When the exception would be applicable, would depend upon whether the conditions mentioned in the exception are satisfied and is not a matter of discretion or choice. To give and uphold such unguided and unfettered discretion to choose, would fall foul of well enshrined principles of administrative law relating to delegated legislation. Rules/regulations are made to ensure transparency, objectivity and uniformity and thus reduce and curtail the scope of arbitrariness. The Rules, therefore, to this extent have an element of compulsion and are mandatory. There can be a difference of opinion between two officers when the question of seniority arises, as in the present

case. When the said issue or contention is raised, the dispute is resolved by making reference to the Rule/regulation and not by resorting to invidious preferences.

12. This brings us to the interpretation of Regulation 11(iia) of the 2001 Regulation. The first sentence of the Regulation incorporates the rule which is applicable when a person earlier on deputation is subsequently absorbed. His seniority in the grade, i.e., the post to which he is appointed on permanent absorption will be counted from the date of his absorption. The deputation period is excluded and not counted. This date in the case of the first respondent would be 2nd July, 2013. The first respondent would not get his seniority from the date when he had come on deputation and started working as Section Officer with effect from 7th July, 2011. This is the effect of the first sentence of the Regulation 11(iia). As this part of the Regulation is not under challenge, we would not comment and pronounce on the validity of the said stipulation. However, the first respondent can get benefit of his past service in the parent department, i.e., the CRPF at the post of Inspector/Hindi Translator if he satisfies the requirements stipulated in the second sentence, i.e., the exception. The said requirement is that the absorbee should be already holding the same or equivalent grade on regular basis in his parent cadre on the date of absorption. If this condition is satisfied, then service rendered in the parent cadre on an equivalent post

would be taken into account in fixing his seniority in TRAI. This exception is also subject to certain conditions stipulated in the later portion of the said Regulation. The proviso to the Regulation states that fixation of seniority in terms of the aforesaid rules would not affect any regular promotion to the next higher grade made prior to the date of absorption. The proviso, therefore, draws a distinction between seniority and eligibility for being considered for the next promotion.

13. We shall now examine the terms “grade” and “post” as per the definition clauses of 2001 Regulations. The terms have been defined as:-

- “(iv) ‘Grade’ means a grade as specified in clauses 3 and 14;
- (v) ‘Post’ means any post in a grade whether permanent or temporary mentioned in Schedules of this Regulation;”

On referring to Regulations 3 and 14, which deal with constitution of officers’ cadre and constitution of staff cadre respectively, we have reservations on the finding recorded by the Tribunal that Regulation 11(iia) refers to “grade pay” and not the “post”. This finding of the Tribunal, we hold, is wrong. However, the said finding would not make any difference to the final outcome for we are clearly of the view that the first respondent was holding the same or equivalent post as Inspector/Hindi Translator in his parent department. The file notings that the post of Inspector/Hindi

Translator in CRPF is lower and that Section Officer (Hindi) is a higher post, is a de hors conclusion and does not set out any reasons as to how the comparison was made. In fact, we find discrepancies and a disconnect in the contention raised by the petitioners for they had themselves treated the first respondent as holding an equivalent or same post in CRPF. It is accepted that one of the modes for recruitment to the post of Section Officer (Hindi) are/were deputation and permanent absorption and absorption by way of transfer. The applicable Regulation for the post of Section Officer and of the next promotional post of Technical Officer in this regard read as under:-

Name of Post	Mode of Recruitment	Qualification & experience for Direct Recruitment	Length of service for promotion	Qualification and experience for deputation	Age for Direct Recruitment
Technical Officer	Promotion/ Deputation/ Absorption/ Direct Recruitment	Degree from a recognized University/Institutions, with 3 years experience. However, depending on the post to be filled, specific degree in Electronic and/or Telecommunications Engineering, Commerce, Economics, Accountancy, Law, or Management, etc., may be prescribed based on the need.	Promotion from amongst the officer with 3 years of regular service in a grade immediately below, with working knowledge of computer	Officers of the Central Government, Public Sector Undertakings and Statutory and Autonomous Bodies (i)holding equivalent post or (ii)with 3 years of regular service in a grade of Section Officer or equivalent.	Not exceeding 30 years

				The officer must possess the working knowledge of computer.	
Section Officer / Librarian	Promotion/ Deputation/ Absorption/ Direct Recruitment	Degree from a recognized University/Institutions, with 2 years of relevant experience. For librarian, Degree should be in Library Science, with 2 years relevant experience.	Promotion from amongst the officials with 6 years of regular service in a grade immediately below with working knowledge of computer.	Officers of the Central Government, Public Sector Undertakings and Statutory and Autonomous Bodies. (i) Holding equivalent post, or (ii) with 6 years of regular service in Grade immediately below. The officer must possess the working knowledge of computer.	Not exceeding 30 years.

”

A reading of the aforesaid Regulation would show that officers from Central Government, Public Sector Undertakings and statutory and autonomous bodies holding an equivalent post or those with six years regular service in the grade immediately below, were eligible provided they had working knowledge of computer. As noted above, the first respondent was appointed as Inspector/ Hindi Translator in the CRPF with effect from 25th April, 2005 in PB-2 in the Grade Pay of Rs.4600, which is an equal or equivalent grade pay payable to Section Officer (Hindi). The

first respondent, therefore, was not holding a lower post or a post in the grade immediately below that of Section Officer (Hindi). We would also notice that this was the reason why the first respondent was given four increments as deputation allowance on taking over as Section Officer (Hindi) on deputation. The said deputation allowance would not have been payable in case the first respondent was holding a lower post or grade in his parent department. Clearly the first respondent was found to be eligible for he was holding an equivalent post in the parent department.

14. The first respondent in his pleadings in the OA filed before the Tribunal had conspicuously and categorically highlighted and alluded to equivalence by coalescing striking similarities between the post of Inspector/Hindi Translator and Section Officer (Hindi). For the sake of completeness, we would like to reproduce the same:-

“

Responsibility and Duties	
<u>In CRPF (MHA)</u>	<u>In TRAI as Section Officer (Hindi)</u>
To represent from the side of Headquarter during the Official Language Inspection of Subordinate office carried out by the Committee of Parliament on Official Language (High Power Committee constituted by the President of India.	No.
Act as Member Secretary of Departmental Official Language Committee/Town Official Language Committee.	No.
To conduct Official Language Inspection of subordinate offices (Units) having strength of 1200 personnel.	No.
Solely responsible for implementation of Government of India Official Language policy in subordinate offices.	Yes. Only in TRAI Office.

Solely responsible to arrange Hindi Language/Typing/Stenography/Hindi workshop training for new appointed entrants and after training, sanction of necessary cash reward, increment to them.	Yes. Only in TRAI Office.
Solely responsible to ensure that time to time all Subordinate offices will conduct necessary activities like conducting of Hindi workshop/Hindi Diwas/Departmental Quarterly Official Language meeting.	Yes. Only in TRAI Office.
To Arrange Hindi Computer/Translation Training for subordinate Office staff.	Yes. Only in TRAI Office.
To Supervise implementation of official Languages order/Policy/Act/Rules framed by Govt of India time to time by subordinate office in true manner.	No.
Translation work.	Yes. Only in TRAI Office.
To give necessary clarification to subordinate office in connection with Official Language Policy as well as Official Language Act/Rules of Govt of India/Financial matter related to Official Language/Training etc.	No.
Many other responsibility like-Recruitment, Member in various Boards/Committee, Administration work/organizing various function etc.	No involvement in other work.

Comparison with respondent No.4, who is No.1 in the seniority list of Section Officers in TRAI Cadre.

	Dinesh Singh Dhanik	Smt. P. Janki (Sl. No. 1 of SO List of TRAI Cadre)
Post Held before 1.1.2006 (5 th CPC)	Inspector (HT)	Assistant
Date from which the post held	25.4.2005	06-12-2001
Pay Scale before 01.01.2006	6500-200-10500 Group B Post	5500-175-9000 Group B Post
Pay Scale on 01.01.2006 (as per 6 th CPC scale)	PB-2 Rs.9300-34800 with Grade Pay 4600/-	PB-2 Rs.9300-34800 with Grade pay 4200/-
Promotion in next Post	Holding same pay scale till absorption in TRAI on 02/07/2013	Promoted from Assistant to Section Officer 01/01/2009 and placed in pay scale of PB-2 Rs.9300-34800 with Grade Pay 4600/-

”

15. The only contention raised by the petitioner to negate the claim for equality is predicated on the fact that the next promotional post in the cadre of Inspector/Hindi Translator in the CRPF was to the post of Subedar W.P. (C) No. 7601/2015

Major in PB-2 (Rs.9300-34800) with Grade Pay of Rs.4800, whereas in TRAI it was that of Technical Officer in PB-3 (Rs.15600-39100) with Grade Pay of Rs.5400. We have considered the said disconnect, but observe the said argument to be feeble and weak in the light of other similarities justifying equivalence. Grade Pay of Rs.4800, as stipulated for the promotional post of Subedar Major in CRPF, is in terms of the next higher grade pay in the First Schedule, Part-A of Section -I of the Central Civil Services (Revised Pay) Rules, 2008. In TRAI, which is a small organization, the next promotion was to PB-3 and not PB-2 and carries a Grade Pay of Rs.5400. Grade Pays of Rs.4800 and Rs.5400 in the hierarchy of PB-2 have been ignored and do not exist in TRAI. However, this divergence alone would not be a good ground to hold that the two posts were not equivalent. The applicable Regulation for appointment to the post of Technical Officer has been quoted in paragraph 13 above. The post of Technical Officer in TRAI could be filled by way of promotion, deputation, absorption or direct recruitment. For promotion, an officer with three years regular service in the grade immediately below is eligible provided he has working knowledge of computer. For the purpose of deputation/absorption, officers of Central Government, Public Sector Undertakings and statutory authorities and autonomous bodies, holding equivalent posts are eligible provided the officers has three years of regular

service in the grade of Section Officer or equivalent, i.e., PB-2 with Grade Pay of Rs.4600. To this extent, eligibility requirements for the post of Technical Officer in TRAI and Subedar Major in CRPF are undistinguishable. The first respondent, we have noted above, had three years experience in the grade of Section Officer, i.e., Grade Pay of Rs.4600 in PB-2 when he was absorbed as Section Officer (Hindi) in TRAI. Thus, the first respondent on absorption, even when taken on deputation was meeting the said eligibility requirement. Thus, the eligibility for promotion as a Technical Officer in TRAI and as a Subedar Major in CRPF were identical, but the promotional posts were in different scales. We agree that this would not be a ground to hold that the post of Section Officer (Hindi) and Inspector/Hindi Translator are equivalent, but this would be one of the factors to be considered when we examine whether the post held by the first respondent in the CRPF was an equivalent post. The petitioner has not countered the other similarities pointed out by the first respondent, which were also mentioned in his representation dated 23rd August, 2013.

16. The last submission made on behalf of the petitioner was predicated on the representation of the first respondent dated 10th December, 2012 when the said respondent had made a written request for absorption as the Section Officer (Hindi). In this letter, he has referred to his work in TRAI and the responsibility shared by him and has stated that in TRAI, the first

respondent was holding the same pay scale as in CRPF, but had greater responsibility. Further, the pay scale in TRAI was lower in comparison to the actual pay being paid to him in the CRPF, as he was entitled to ration, washing allowance, etc. and other facilities in form of free uniform, CGHS, cashless hospital treatment, free medicines, subsidized canteen, bonus, etc. in the CRPF. This letter written by the first respondent seeking permanent absorption is in the nature of a prayer. It tends to acclaim and praise the work and opportunity he has in TRAI. Pertinently, this letter also mentions that the first respondent was working in the same pay scale in CRPF for the last seven years and possesses a Master's degree in Hindi and had 20 years of experience in the field, i.e., translation from Hindi to English and vice-versa. The said statement has to be read in context and would not operate as *estoppel* or a binding admission, which cannot be understood and explained. Several letters were written by the first respondent to TRAI. For the principle of *estoppel* to apply, it has to be shown that the petitioner had acted on the promise or statement made. File notings do not record that this statement was the basis of absorption. Further, in the present case seniority would be determined by applying the statutory rules and legal principles for determining whether the two posts were equivalent and not on the basis of a statement.

17. In the light of the aforesaid discussion, we do not find any merit in the present writ petition and the same is dismissed. In the facts of the case, there will be no order as to costs.

-sd-
(SANJIV KHANNA)
JUDGE

-sd-
(NAJMI WAZIRI)
JUDGE

MAY 19, 2016
VKR

