

Central Administrative Tribunal  
Principal Bench

OA 138/2002  
MA 123/2002

Monday, this the 15th day of July, 2002

Hon'ble Shri M.P.Singh, Member(A)  
Hon'ble Shri Shanker Raju, Member(J)

Balram Narula S/o Shri Gela Ram  
Working as STS (Senior Telephone Supervisor)  
Legal Cell O/o T.D.M. Rewari. ....Applicant.

(By Advocate: Shri M.K.Gaur)

Versus

Union of India and Others  
Through

1. The Secretary,  
Ministry of Communication,  
Department of Telecom, Sanchar Bhawan,  
New Delhi.
2. The Chief General Manager of Telecom (BSNL),  
Haryana Circle, Ambala.
3. Telecom District Manager (BSNL),  
Near Civil Hospital,  
Rewari-123401 ....Respondents

(By Advocate: Mrs. P.K.Gupta)

ORDER (Oral)

By Shanker Raju, Member(J):

Heard both the parties.

2. Applicant has assailed ~~non~~ non-grant of  
Biennial Cadre Reviews (hereinafter called as "BCR")  
w.e.f. 3.11.91 whereas the same has been given to him  
on 24.2.1993.

3. Applicant was appointed as Telephone  
Operator on 3.11.1965 and had completed 26 years of  
service entitling him to be accorded promotion under  
the BCR Scheme. Respondents accorded him BCR  
promotion w.e.f. 24.2.1993.

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4. Applicant was facing ~~with~~ minor penalty of charge-sheet which was finalised on 18.12.92 wherein the AE (Phones) exonerated the applicant from charges against him.

5. Learned counsel of the applicant, Shri M.K.Gaur, placing reliance on a decision of the Apex Court in Union of India & Others Vs. K.V.Jankiraman, 1991 (2) Scale SC 423 contended that as per the BCR Scheme of Ministry of Communication, is entitled for promotion on completion of 26 years of service on the crucial date on 11.10.91 and the review committee is to assess the performance and pass the orders keeping in view the cut off date. By placing reliance on a decision of a Co-ordinate Bench in OA 78/2001 in Shyam Lal Sharma Vs. Union of India and Others, it is contended that the respondents are required to review the cases of such employees who have completed 26 years on crucial date. It is stated that the applicant was facing a minor penalty of charge-sheet and culminated in exoneration, as such instead of February, 1993 he has to be accorded the benefits of BCR promotion w.e.f. 3.11.91 and he had completed 26 years of service with a satisfactory service record without any adverse material against him.

6. On the other hand, Mrs. P.K.Gupta, learned counsel appearing on behalf of the respondents contended that as the applicant was facing a minor penalty of disciplinary proceedings his promotion was to be given only after review of assessment of fitness as per letter dated 16.10.1990.

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7. As the charge-sheet was finalised on 18.12.1992, the DPC met on 13.1.1993 the relevant document could not be placed before the committee. In February, 1993, the DPC considered the cases and accorded BCR promotion to the applicant w.e.f. 24.2.93.

8. We have carefully considered the rival contentions of both the parties and perused the material on record. Having regard to the Scheme and the decision of the Co-ordinate Bench in Shyam Lal Sharma's case (supra) the object of BCR Scheme is to provide some incentive to those who are performing their duties with utmost satisfaction, Scheme envisages grant of BCR promotion to those who are suitable for advancement. This is also on the basis of completion of 26 years of service and as a minor charge-sheet issued to the applicant culminated into exoneration on 18.12.92 and the applicant having completed 26 years of service on 3.11.91 in absence of adverse material against him and the applicant having found fit to the benefits of BCR Scheme should be accorded to him w.e.f. 3.11.91. In Jankiraman's case (supra) on exoneration, the promotion is to be anticated from the entitlement from the date the juniors being accorded. The decision of the respondents to accord promotion under the BCR Scheme to the applicant from 24.2.93 cannot be countenanced.

9. In the result and having regard to the reasons recorded above, the OA is allowed and

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respondents are directed to convene a review DPC to consider BCR promotion to the applicant w.e.f. 3.11.91. The aforesaid direction shall be complied with within a period of three months from the date of receipt of a copy of this order. Thereafter, applicant shall also be entitled for all consequential benefits. No costs.

*S. Raju*

(Shanker Raju)  
Member(J)

*mpb*

( M.P.Singh)  
Member(A)

/kd/