

(9)

Central Administrative Tribunal, Principal Bench
Original Application No.2687 of 2002

New Delhi, this the 19th day of May, 2003

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

Brij Bhushan Sharma (St.No.GO-9179)
(Retired SDE, Department of Telecom),
GS S-II, House No.1083-A
Sector-29, Faridabad (Haryana)

.... Applicant

(By Advocate: Shri S.N. Anand)

Versus

1. Union of India through
The Secretary
Ministry of Communications
(Department of Telecom)
Sanchar Bhawan,
20, Ashoka Road
New Delhi-1
2. The Chief General Manager,
Mahanagar Telephone Nigam Limited,
Khurshid Lal Bhawan,
New Delhi-50
3. The Chief General Manager,
Northern Telecom Region
Kidwai Bhawan,
Janpath,
New Delhi-50

.... Respondents

(By Advocate: Shri V.K. Rao)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

Applicant Brij Bhushan Sharma is a retired Sub-Divisional Engineer (SDE). He was working in the Department of Telecom.

2. By virtue of the present application, he seeks a direction to the respondents to grant scale of Senior Assistant Engineer upon completion of 12 years regular service with effect from 1.2.2000 with arrears and to consider him for further promotion from 10.8.99 with consequential benefits.



3. Some of the facts which are not in controversy can conveniently be delineated. On 2.4.66, the applicant was promoted as Junior Telecom Officer. In February 1988, he was promoted in the Telecom Engineering Service (TES) in Group 'B'. On 30.3.98, a chargesheet under Rule 14 of Central Civil Service (Classification, Control and Appeal) Rules, 1965 was issued to the applicant. Certain persons, junior to him, had been promoted on ad-hoc/officiating basis under the departmental rules after 12 years of regular service in TES. The applicant is eligible to the grade of Senior Assistant Engineer. He superannuated on 30.6.2000. It is also not in dispute that subsequently when the report of the enquiry officer had been received, the disciplinary authority dropped the charges and the operative part of the order reads:

"Taking into account the findings of the Inquiring Authority, records of the case and on an objective assessment of the facts and circumstances of the case in its entirety, I, J. Ramanujam, Member(Services), Telecom Commission hereby order to drop the charges against Shri B.B. Sharma, SDO(Retd.). However, Government's displeasure is conveyed to him for the lapses proved during the inquiry."

4. Needless to state that the application is being opposed on various pleas.

5. The first preliminary objection raised is that this Tribunal at New Delhi does not have the territorial jurisdiction to entertain the application. This is being floated on the premise that the applicant is residing at Faridabad (Haryana). Indeed when such is the situation, the applicant had the right to file an appropriate

U. Ag

3

application before the Central Administrative Tribunal at Chandigarh but when cause of action also arises before another Tribunal, necessarily he can file the application in the Principal Bench of this Tribunal at New Delhi. In the present case, the applicant at the time when he superannuated, was serving at New Delhi. Therefore, he was ignored for the promotion claimed while he was serving within the jurisdiction of this Tribunal. The cause of action thus did arise within the territorial jurisdiction of the Principal Bench. Consequently, the contention so much thought of on behalf of the respondents, is rejected.

6. Another preliminary objection raised has been that the applicant was serving in Mahanagar Telephone Nigam Limited (MTNL) at the time when he superannuated and, therefore, once no notification has been issued under Sub-section 2 of Section 14 of the Administrative Tribunals Act, 1985, this Tribunal has no jurisdiction to deal with the matter. Even this contention has to be stated to be rejected. The applicant belongs to Group 'B' employees of the Telecom Department. They have not yet been permanently absorbed in the MTNL and, therefore, it must be taken for purposes of the present application that he remained on the rolls of the Telecom Department within the jurisdiction of the Ministry of Communication. Even this plea necessarily, therefore, must fail.

7. As already pointed above, the applicant was facing disciplinary proceedings while his juniors had been granted ad-hoc promotion. This was the sole reason to

LS Ag



ignore the applicant. We have reproduced above the final order passed in the disciplinary proceedings. It clearly conveys that the charges as against the applicant were dropped. Once the charges have been dropped, necessarily it must be taken that there is precious little against him to be proceeded with for any departmental action. We repeat that once the charges had been dropped, conveying of displeasure is meaningless. We fail to understand that after dropping of the charges, how the disciplinary authority could state that displeasure is conveyed for lapses during the enquiry. When there is no charge, there is no lapse left to be proved for taking any action. Inadvertently, the same seemingly has been written in the order and necessarily it should be ignored that the applicant has been conveyed displeasure for his lapses during the enquiry.

8. Juniors to the applicant have since been promoted on ad-hoc basis. The claim of the applicant, therefore, could not have rightly been ignored. Consequently, we hereby direct that:

(a) respondents would consider the claim of the applicant for grant of the scale of Senior Assistant Engineer on completion of 12 years regular service ^{ie} ~~from~~ 1.12.2000 in accordance with rules;

(b) respondents would further consider the claim of the applicant for promotion from the date

U. Ag

his juniors had been promoted on ad-hoc basis:
and

(c) if any arrears are due, the same should be
paid to the applicant after taking a conscious
decision within three months from the receipt
of the certified copy of the present order.

9. With the above directions, the O.A. is disposed
of.

(Govindan S. Tampi)
Member (A)

(V.S. Aggarwal)
Chairman

/dkm/