



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI
OA No. 3854/2015**

New Delhi, this the 02nd day of January, 2020.

**HON'BLE MRS. JUSTICE VIJAY LAKSHMI, MEMBER (J)
HON'BLE MR. PRADEEP KUMAR, MEMBER (A)**

Bharat Bhushan Raizada,
S/o Sh. I.D. Raizada,
R/o A-412, Nav Nirman Society
Plot No.6A, Sector-2,
Dwarka,
New Delhi-110075.
Age 55 years
Work –Senior Manager

...Applicant

(By advocate : Ms. Harvinder Oberoi)

Versus

Mahanagar Telephone Nigam Limited,
Through its
Chief Managing Director,
MTNL, 9, CGO Complex,
5th Floor, Lodhi Road
New Delhi-110003

Executive Director
MTNL, Room-No.222, 2nd floor
K.L. Bhawan,
Janpath, New Delhi-110050

General Manager (ADMN)
MTNL, Room No. 315, 3rd floor
K.L. Bhawan,
Janpath, New Delhi-110050 ...Respondents

(By advocate : Sh. Ranjeet Singh with Sh. Neeraj K
Gupta)

ORDER (ORAL)



Hon'ble Mr Pradeep Kumar, Member (A):

1.0. The applicant herein was working in the scale E-4 in MTNL as per the financial upgradation scheme promulgated vide OM dated 11.09.2007. Under this scheme, the applicant was eligible to be considered for upgradation from scale E-4 to E-5 w.e.f. 1.10.2009. This consideration was extended to him in the DPC held on 16, 21 and 22.10.09. However, the relevant DPC recommendations indicate that the applicant's complete record was not available with the DPC. Thereafter, this consideration was extended again by the DPC held on 30.6.2010, but again with same result.

Accordingly, this consideration was subsequently extended to the applicant again when he was considered fit and was granted the scale E-5 w.e.f. 1.10.10.

2.0. The applicant is aggrieved that he ought to have been considered for scale E-4 to E-5 w.e.f. 1.10.2009 itself.

3.0. The respondents brought out that when the first upgradation was considered for 1.10.09, the ACR of the year 2007-08 was not available and accordingly the DPC (held on 22.10.09) recorded that complete record was not available and did not make any recommendation in



respect of the applicant. Similar note was made by the DPC held on 30.6.10.

Subsequently, when the consideration took place, the ACR of the year 2007-08 was again not available as in earlier two DPCs, however the DPC (Held on 23.2.2015) went back one year and considered the ACR of the year 2003-04 and declared the applicant as fit, following which he has been granted upgradation to scale E-5 w.e.f. 1.10.10.

It was pointed out that by the time of this DPC, Hon'ble Apex Court had delivered the Debdutt judgment on 13.4.10 and below bench mark ACRs were required to be shown to the employees to enable him/her to submit representation, if any. As a result the ACR for the applicant for 03-04 was disclosed and it underwent upgradation.

It was also pointed that the bench mark for fitness for financial upgradation, were also made stricter vide instructions Dt. 8.3.2011.

4.0. The applicant pleads that the instructions, to consider the previous year's ACR if some ACR is not available, existed since 1989 as per the OM issued by the DOP&T and accordingly, when his ACR for the year 2007-08 was not available at the relevant point of time when the DPC



considered his case first time on 22.10.09, for grant of upgradation from E-4 to E-5 w.e.f. 1.10.09, the DPC ought to have gone back by one year and considered the ACR of the applicant for 2003-04 as they did later on.

5.0. Matter has been heard. The respondents were specifically asked the reason as to why the DPC did not go one year earlier after the ACR for 2007-08 was found missing. There was no specific reason given.

6.0. In view of the foregoing, this Tribunal is of the considered view that the respondents did not consider the case of the applicant for upgradation from E-4 to E-5 w.e.f. 1.10.2009, applying the criteria applicable as on that date by considering the ACR for 2003-04 when his ACR for the year 2007-08 was not available at that point of time.

Accordingly, the respondents are directed to hold a review DPC, in respect of applicant, for the DPC held on 22.10.09 within a period of three months as per norms applicable at that point of time and as per ACR of 03-04 as it existed then and pass a reasoned and speaking order. No costs.

(Pradeep Kumar)
Member (A)

(Justice Vijay Lakshmi)
Member (J)