

Central Administrative Tribunal
Principal Bench: New Delhi

OA no. 368/99

New Delhi this the 18th day of November 1999

Hon'ble Mr. Justice V. Rajagopala Reddy, VC (J)
Hon'ble Mrs. Shanta Shastry, Member (A)

Nand Kishore Joshi
Research Assistant
R/o Flat No.2-B, Pocket A-3,
Kalkaji Extension,
New Delhi-110019.

..... Applicant

(By Advocate Sh.M.L.Chawala)

Versus

1. Union of India
(through the Secretary to the
Govt. of India, Ministry of
Personnel, Public Grievances &
Pensions, Deptt. of Personnel &
Training), New Delhi.

2. The Secretary to the Govt. of India,
Ministry of Communications,
Department of Telecommunications,
Sanchar Bhawan, Ashoka Road,
New Delhi-110001.

3. Union Public Service Commission,
Dholpur House, Shah Jehan Road,
New Delhi-110003.

..... Respondents

(By Advocate D.S.Mahendru)

ORDER(Oral)

By Reddy.J-

Heard the learned counsel for the applicant and
the learned counsel for the respondents.

1. The applicant was working as Assistant in the
Department of Telecommunication. While working in the
Deptt. he qualified himself for promotion to the post of
Section Officer on the basis of Ltd. Departmental
Competitive Examination. The said examination was held in
1996 by the Union Public Service Commission and the

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applicant obtained the rank No. 57. The Department of Personnel & Training allocated him to the Ministry of Defence by order dated 12.8.98 in the post of Section Officer. He again appeared in the examination held in 1997 to improve his position / rank and he did improve by securing 39th rank. The applicant submitted a representation dated 17.8.98 requesting to alter his allocation in the department of Telecommunication as S.O. instead of Defence Ministry. The said representation was rejected. The grievance of the applicant is that in view of his improved ~~his~~ position by securing rank 39 in the examination held in 1997, he was entitled to be retained in the Telecommunication Ministry. Learned counsel for the applicant submits that there were vacancies in the Telecommunication Department.

2. Learned counsel for the respondents submits that the applicant was allocated on the basis of 1996 examination in Defence Ministry and that rules does not permit to improve one's rank or position in subsequent examinations. He also submits that there are no vacancies in the Telecommunication Deptt. for the applicant to be considered for allocation.

3. We have considered the arguments of the Ld.counsels. On the basis of the 1996 examination the applicant has been allocated to the Defence Ministry. It is clearly stated in the counter affidavit that the Deptt. of Telecommunication allocated 3 candidates from LDCE, 1997 to the Telecommunication ^{Deptt.} against 3 vacancies reported by the DOPT. The applicant having secured 5th position it would not be possible for the department to allocate him in the Telecommunication Department. Hence he was allocated in the

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Defence Ministry. It was noticed that out of the candidates appeared in the examination held in 1996 and 1997 none of them were considered for allocation on the basis of 1997 examination. The candidate having been allocated on the basis of previous examination it would not be possible to cancel any such allocation. It is also stated that the LDCE Rules do not contain any provision for allowing successful candidates to re-appear in the subsequent examination for improving their rank.

4. The above facts clearly indicate that the allocation of the applicant was properly considered and the applicant was allocated in the Defence Deptt. When rules do not permit for improving one's rank, it is not permissible for the Tribunal to pass any order contrary to the rules. It is also necessary to keep in mind allocation of the Deptt. is only discretion of DOPT, unless any violation of the rules is brought to our notice we will not interfere in any such allocation.

5. In the circumstances we do not find any merits in the OA. The OA is accordingly dismissed. No costs.

Shanta S

(SMT. SHANTA SHASTRY)

M(A)

V. Rajagopala Reddy

(V. RAJAGOPALA REDDY)

VC(J)

RB