

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

(6)

O.A. No.1005/1999

Hon'ble Smt. Lakshmi Swaminathan, Member(J)
Hon'ble Smt. Shanta Shastry, Member(A)

New Delhi, the 7th January, 2000

Shri R.K. Verma S/o Shri Tauley Ram
working as Accounts Officer(Internal Audit)
in the O/O the D.G.M.(I.A.), MTNL New Delhi
R/o C/o Shri Sant Lal, Advocate
C-21(B) New Multan Nagar, Delhi 110 056 ...Applicant
(By Advocate: Shri Sant Lal)

Versus

1. The Union of India
through the Secretary
Ministry of Communications
Dept. of Telecom
Sanchar Bhawan, New Delhi 110 001
2. The Member(Finance)
Telecom Commission
Dept. of Telecommunication
Sanchar Bhawan, New Delhi 110 001
3. The Chief General Manager
M.T.N.L., K.L. Bhawan
New Delhi 110 050 ...Respondents
(By Advocate: Ms. Geetanjli Goyal)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

The applicant is aggrieved that he has not been treated as regularly appointed Accounts Officer with effect from 15.2.1994 in pursuance of the respondents' O.M. of the same date (Annexure A-1), in which his name has been placed at S.No.46 on the basis of the recommendations for selection in the grade of Accounts Officers of the Indian P&T Accounts and Finance Service Group 'B' (Telecom Wing).

2. This O.A. was filed on 28.4.1999 and thereafter the respondents have issued an order dated 27.10.1999, in pursuance of their earlier order dated 15.2.1994, whereby the applicant has been appointed to

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officiate on regular basis in the grade of Accounts Officer in the Indian P&T Accounts and Finance Service Group 'B' (Telcom) with effect from 9.7.1996. Ms. Geetanjli Goyal, learned counsel for the respondents has further clarified at the bar that even before the order dated 27.10.1999 was passed, the applicant had been given officiating charge of the post of Accounts Officer with effect from 26.6.1998. However, in terms of the respondents' own order dated 27.10.1999, he would be entitled to the regular promotion in the grade of Accounts Officer with effect from 9.7.1996.

3. The brief relevant facts of the case are that at the time when the O.M. dated 15.2.1994 was issued, admittedly, disciplinary proceedings were pending against the applicant under Rule 14 of the CCS (CCA) Rules, 1965 in which a charge-sheet had been issued against him on 24.4.1989. The disciplinary authority had passed the punishment order on 9.7.1995 of reduction of pay by one stage for one year, which was to be effective from 9.7.1995. It is also noted that the respondents have issued the promotion order dated 27.10.1999 with retrospective effect from 9.7.1996. The applicant has filed an appeal against the disciplinary authority's order on 9.10.1995 on which he has submitted, no decision has been communicated to him by the respondents so far. This position is admitted by the learned counsel for the respondents.

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4. Shri Sant Lal, learned counsel for the applicant has submitted that there has been inordinate delay on the part of the respondents in disposal of the appeal. However, this is not an issue in this O.A. Further, it is noticed that in paragraph 5 of the respondent's O.M. dated 15.2.1994, it is clearly mentioned that the promotion of the officers are subject to the condition that no vigilance case is pending or contemplated against them. However, there is no explanation as to why the appeal submitted by the applicant as far back as October, 1995 has still not been disposed of by the respondents and the decision thereof communicated to the applicant. Shri Sant Lal, learned counsel has relied on the judgments of the Hon'ble Supreme Court in State of Punjab Vs. Chaman Lal Goyal (SC SLJ (1995)(1) 233) and Mohd. Habibul Haque Vs. UOI [SLJ (1994)(3) p.142]. His contention is that as there has been considerable delay in finalising the disciplinary proceedings, the applicant should not be made to suffer and he should be given the promotion to the post of Accounts Officer with effect from 15.2.1994 instead of 9.7.1996.

5. We have carefully considered the pleadings and the submissions made by the counsel for the parties. In the facts and circumstances of the case and particularly having regard to the promotion order dated 27.10.1999 passed by the respondents giving the applicant promotion to the post of Accounts Officer with effect from 9.7.1996, the judgment of the Supreme Court in Chaman Lal Goyal's case (supra) is not applicable in this case as the respondents have

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already taken action. Having regard to the rider in paragraph 5 of the Office Memorandum dated 15.2.1994, the applicant could not have claimed promotion with effect from that date when admittedly a major penalty case was pending against him under the provisions of CCS (CCA) Rules, 1965.

6. In the result, in the facts and circumstances of the case, the O.A. is disposed of as follows:-

The respondents are directed to take a decision on the appeal filed by the applicant against the disciplinary authority's order dated 9.7.1995 within six weeks from the date of receipt of a copy of this order, if not already done, and intimate to the applicant the decision. In case the punishment order is set aside by the appellate authority, the applicant shall be entitled to the promotion with all consequential benefits of arrears of difference in pay and allowances and seniority with effect from 15.2.1994 in accordance with law, rules and instructions and the observations of the Hon'ble Supreme Court in UOI Vs. K.V. Jankiraman [1991(4) SCC 109]. No order as to costs.

Shanta S
(Smt. Shanta Shastry)
Member(A)

Lakshmi S
(Smt. Lakshmi Swaminathan)
Member(J)