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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH.

O.A.No.194/98

New Delhi: this the 6th day of May, 1999.

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

HON'BLE MR. T. N. BHAT, MEMBER (J)

Smt. Asha Rani,
W/o Shri Jaswant Singh,
working as Telephone Operator,
in the office of CGM (Telephones)
TMX, Kidwai Bhawan, New Delhi

.... Applicant.

(By Advocate: Shri A. K. Trivedi)

Versus

Union of India, through
its Secretary,
Ministry of Communication,
Sanchar Bhawan,
New Delhi.

2. Chief General Manager (Telephones),
Department of Telecommunication
Khursid Lal Bhawan,
New Delhi.

3. Accounts Officer (P & A),
6th floor, Long Distance,
Kidwai Bhawan,
New Delhi

..... Respondents.

(By Advocate: Shri V. K. Rao)

ORDER

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

Applicant impugns respondents' order dated 8.4.97 (Annexure-A) and seeks refund of the amount already recovered from her pay and allowances from September, 1997 onwards with interest @ 18% p.a.

2. Her case is that she was appointed as Telephone Operator vide appointment letter dated 10.8.88 (Ann.-B) and in the background of respondents' order dated 24.7.95 (Annexure-C) she was promoted to officiate as Sr. TDA (P) vide Sl. No. 575 and after submitting her initial joining report on 24.7.95 submitted a second joining report on 22.1.96, but all of a sudden she was served with the impugned order dated 8.4.97

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which she states is illegal, arbitrary and violative of Articles 14 and 16 of the Constitution..

3. Respondents in their reply contend that in the promotion order dated 24.7.95 applicant's name was erroneously shown at Sl.No.575 instead of one Smt. Harsha Rani. They state that as per rules those who were eligible had to apply for the post of Sr. TDA(P) and by respondents' notifications dated 31.12.94 and 19.7.95 respondents had called for applications from candidates who wanted to be considered for the said promotion/transfer. They state that Smt. Harsha Rani applied, whereas applicant did not apply at that time (she applied on 10.2.98) and therefore she could not have been considered but because of an error that crept into the promotion order, she was treated as promoted as Sr. TDA(P). They state that the error was detected only when Smt. Harsha Rani represented and after examination of her representation, upon which the impugned order dated 8.4.97 was passed.

4. Applicant has filed rejoinder in which she has denied respondents' contention that she had not applied for the post of Sr. TDA(P) pursuant to respondents' notification dated 19.7.95.

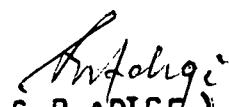
5. We have heard both sides.

6. Even if as contended by respondents, applicant's name crept into the order dated 24.7.95 through error, respondents could not have reverted applicant from a retrospective date and ordered recoveries from her salary and allowances from that date, when admittedly she has performed the duties and functions of a Sr.TDA(P) from 24.7.95.

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7. In the result, this OA succeeds and is allowed to the extent that the impugned order dated 8.4.97 withdrawing applicant's adhoc promotion w.e.f. 24.7.95 is quashed and set aside. No recoveries from applicant's salary and allowances shall be made for this period, and recoveries already made if any shall be refunded with 12% p.a. interest thereon from the date of recovery till the date of actual refund. It will be open to respondents to pass fresh orders in accordance with law after giving applicant a reasonable opportunity of being heard. No costs.


(T.N. BHAT)
MEMBER(J)


(S.R. ADIGE)
VICE CHAIRMAN(A).

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