

13

Central Administrative Tribunal, Principal Bench

OA No. 1454/95

New Delhi, this the 9th day of December, 1996

Hon'ble Shri S. P. Biswas, Member (A)

Shri Baboo Ram,
Sub Divisional Engineer,
Area Manager Telecom, Noida(UP) .. Applicant
(Applicant in person)

Versus

1. Union of India through
Chairman,
Telecom Commission,
Sanchar Bhawan, New Delhi
2. Chief General Manager,
Telecom
UP Circle (West), Dehradun
3. Chief General Manager,
Telecom,
UP Circle (East), Lucknow .. Respondents
(By Shri B.K. Punj proxy for Sh. M.M. Sudan, Advocate)

O R D E R (oral)

The applicant Baboo Ram, a Sub Divisional Engineer, is aggrieved P3 and P5 orders dated 26.12.91 and 7.2.94 respectively. By P3, the Reporting Officer has communicated adverse remarks in respect of the applicant for the year 1990-91. By P5, the applicant has been allowed to cross the Efficiency Bar (EB for short) with effect from 20.1.94 instead of 1.11.92. Consequently, he has prayed for quashing the above orders and also issuance of directions to respondents to expunge the adverse remarks by the reporting officer.

2. The applicant's case is that in spite of repeated appeals preferred on 5.3.1992 (Annexure P-4) and 28.12.1994 (Annexure P-8), the respondents have not considered his case with regard to his grievances. It is also the case of the applicant that the order for crossing of efficiency bar w.e.f. 20.1.1994 has been issued without affording any opportunity of representing applicant's case. That respondents' refusal to allow

14

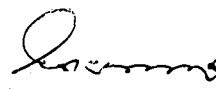
crossing the efficiency bar from 1.11.92 is vitiated by arbitrariness and is against the principles of natural justice as no reasons have been recorded. In support of his contention, the applicant has cited the decision of the Hon'ble Supreme Court in the case of Padam Singh Jhina vs. Union of India and Others 1974(1) SLR 595(SC). In this case the apex court had decided that orders preventing crossing of EB should be passed either before the appointed date or shortly thereafter whereas in the case of the applicant the appointed date was 1.11.92 and the respondents have passed the order on 7.2.94, approximately after a period of one year and four months. While drawing strength of the Hon'ble Supreme Court in the case of State of Haryana Vs. P.C. Wadhwa, AIR 1987 SC 1201, the applicant contends that whole object of making adverse remarks would have been lost when such remarks from the ACR are communicated to the officer concerned after inordinate delays.

3. In the background of the circumstances aforementioned, the applicant had sent two representations to the respondents on 5.3.1992 and 17.5.1994 respectively but the respondents appear to have turned Nelson's eye to his grievances.

4. Counsel for the respondents submitted that Respondent No.2 will now be the appropriate authority to provide necessary relief and the two representations to Respondent No.3, already addressed by the applicant, may

not evoke encouraging response. The applicant is, therefore, authorised to make a comprehensive appeal setting out his grievances with details to respondent No. 2 Chief General Manager, Dehradun within a period of fifteen days from the date of receipt of this order and respondent no. 2 shall pass a speaking order and communicate the decision to the applicant within a period of three months from the date of receipt of the representation from the applicant. In case the applicant still feels aggrieved, he may agitate the issues at the appropriate forum, if so advised.

The OA is disposed of as aforesaid.


(S.P. Biswas)
Member (A)

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