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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A. NO. 1086 of 1995

New Delhi this the 9th day of June, 1995.

HON'BLE SHRI JUSTICE S. C. MATHUR, CHAIRMAN  
HON'BLE SHRI P. T. THIRUVENGADAM, MEMBER (A)

Udai Vir Singh,  
Junior Engineer (Civil),  
Telecom Civil Sub Division,  
Deptt. of Telecommunication,  
R-6/47 Raj Nagar,  
Ghaziabad.  
R/O SC-330 Shastri Nagar,  
Ghaziabad.

... Applicant

( By Shri K. K. Puri with Shri V. P. Kohli,  
Advocates )

versus

1. Union of India through  
the Secretary,  
Ministry of Communications  
(Deptt. of Telecom),  
Sanchar Bhawan, Ashok Road,  
New Delhi - 110001.
2. The Chief Engineer (Civil),  
Department of Telecom ( Civil Wing),  
Telecom Civil, Central Zone,  
YMCA Compound,  
13 Rana Pratap Marg,  
Lucknow - 226001. ... Respondents

O R D E R (ORAL)

Shri Justice S. C. Mathur -

The applicant, Udai Vir Singh, seeks a direction to regularise his services in the grade of Rs.2000-3500 and further to direct the respondents to keep in abeyance the result of the limited departmental competitive examination till the applicant is regularised.

2. The applicant was appointed as a Junior Engineer in the Telecommunications Department. Junior Engineers could be considered for

promotion to the post of Assistant Engineer. It appears that for a number of years, vacancies in the cadre of Assistant Engineer did not become available causing stagnation of the Junior Engineers. Taking note of this situation, the Government in the Ministry of Communications issued order No. 6-8/87-CSE dated 9.5.1991. By this order, it was provided that such Junior Engineers who had completed 15 years of service may be provided the scale of Rs.2000-3500 by way of personal promotion subject to their seniority-cum-fitness. As a result of this order, the applicant was allowed the scale of Rs.2000-3500 by order dated 13.10.1994. Prior to this date, the recruitment rules of 1992 were enforced. These recruitment rules provide two methods of recruitment to the post of Assistant Engineer - (1) 50% by promotion from among the Junior Engineers with 8 years' regular service in the grade, and (2) 50% by limited departmental competitive examination from among Junior Engineers who had rendered not less than 4 years' regular service in the grade. It is also provided in the recruitment rules that recruitment by both the modes will be on the criterion of selection. The administration proceeded to fill up 50% posts on occurrence of vacancies by limited departmental competitive examination. The applicant is aggrieved by the procedure adopted by the administration. The applicant's plea is that first his case is to be

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considered for regularisation as provided for in the order dated 9.5.1991. According to the learned counsel, the order dated 9.5.1991 has created a right in favour of the applicant to be considered for regularisation and, therefore, recruitment by the normal method can be resorted to only after the applicant's case has been considered for regularisation. Relevant portion of the order dated 9.5.1991 reads as follows :

"After careful consideration, the Telecom. Commission has been pleased to decide as under :-

(1) The Junior Engineers (C/E) of P&T Civil Wing shall be initially appointed in the scale of pay Rs.1400-40-18-EB-50-2300 at the entry level. These Junior Engineers (C/E) shall, on completion of 5 years service in the grade, be placed in the scale of pay of Rs.1640-60-2000-EB-75-2900 on the basis seniority-cum-fitness. This higher grade shall not be treated as promotional grade but shall be a non-functional one and the benefit of FR 22(I)(a)(i) will not be admissible while fixing the pay in the higher grade, as there shall be no change in the duties and responsibilities.

(2) It has further been decided that the Junior Engineers (Civil/Electrical) of P&T Civil Wing who could not be promoted to the post of Asstt. Engineer (C/E) in the pay scale of Rs.2000-60-2300-EB-75-3200-100-3500/- due to the non-availability of vacancies in the Grade of Asstt. Engineer, i.e., Rs.2000-3500, on a personal basis, after completion of 15 years of service in the grade, computed from the date of entry in the basic grade of Rs.1400-2300/-, on the basis of seniority-cum-fitness. As and when regular vacancies in the grade of Asstt. Engineer (C/E) become available, the Junior Engineers (C/E) enjoying the personal promotion shall be adjusted against those vacancies subject to observance of normal procedure. The benefit of fixation of pay under the provisions of FR 22(I)(a)(i) shall be allowed at the time of granting the personal scale of Rs.2000-3200/-."(emphasised).

The emphasised portion in the above extract clearly brings out that those who have got

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promotion on the basis of order dated 9.5.1991 may be adjusted on occurrence of vacancy only by following the normal procedure. The learned counsel points out that prior to 1992 there was no provision for limited departmental competitive examination and recruitment to the post of Assistant Engineer was made only by way of promotion. According to the learned counsel, the same procedure was required to be followed even at this stage. We are unable to accept the submission of the learned counsel. Prior to the applicant's actual promotion, rules had been amended. The order dated 9.5.1991 did not create any vested right in favour of the applicant to continue in the scale of Rs.2000-3500 without being subjected to the procedure prescribed by rules. The applicant cannot, therefore, avoid to appear either at the limited departmental competitive examination or the procedure for promotion by selection prescribed in 1992 rules. If the applicant wants accelerated promotion, he is free to appear at the limited departmental competitive examination. If he wants to take his chance on the normal turn, he may wait for the holding of departmental promotion committee.

3. Learned counsel for the applicant strenuously submitted that recruitment rules of 1992 can be applied only against the vacancies left-over after adjustment of the Junior Engineers allowed the higher scale in pursuance

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of order dated 9.5.1991. Neither the order dated 9.5.1991 provides for it, nor the recruitment rules. Our attention has not been invited to any other order making provisions in accordance with the submission of the learned counsel. Accordingly, the submission of the learned counsel cannot be accepted.

4. In view of the above, we do not find any merit in the application which is accordingly dismissed in limine.

*P. T. Thiruvengadam*

( P. T. Thiruvengadam )  
Member (A)

*S. C. Mathur*

( S. C. Mathur )  
Chairman

/as/