

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 1139/96

199

T.A.No.

DATE OF DECISION 2.2.2000.

S.D.Prasad

....Petitioner

None present

....Advocate for the  
Petitioner(s)

VERSUS

UOI through Secretary  
Deptt.of Telecommunications,  
Sanchar Bhawan, Ashokha Road

....Respondent

Sh.V.K.Mehta

....Advocate for the  
Respondents.

CORAM

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

The Hon'ble Shri M.P.Singh, Member (A)

1. To be referred to the Reporter or not Yes
2. Whether it needs to be circulated to other Benches of the Tribunal? No.

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

Central Administrative Tribunal  
Principal Bench

O.A. 1139/96

New Delhi this the 2nd day of February, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).  
Hon'ble Shri M.P. Singh, Member(A).

S.D. Prasad,  
S/o Shri Ram Lakhan Prasad,  
RZF-1/201, Mahavir Enclave,  
Palam Village,  
New Delhi-110 045.

..... Applicant.

None present.

Versus

Union of India through Secretary,  
Department of Telecommunications,  
Sanchar Bhawan, Ashoka road,  
New Delhi-110 001.

... Respondents.

By Advocate Shri V.K. Mehta.

O R D E R (Oral)

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

The applicant has filed this O.A. praying for a direction to the respondents to post him as Desk Officer and to pay him the arrears of pay and allowances to the post of Desk Officer together with interest @ 12% per annum w.e.f. 19.12.1994 and costs.

2. None for the applicant even on the second call. This case has been listed at Serial No. 6 in today's cause list under "Regular matters." We have accordingly perused the pleadings and heard Shri V.K. Mehta, learned counsel for the respondents.

3. The brief relevant facts of the case are that the applicant is a Section Officer belonging to the Central Secretariat Service (CSS). He was appointed as Section Officer in the office of the respondents in October, 1984 on passing

the Section Officer's Grade Combined Limited Departmental Examination, 1983. On his appointment as Section Officer, he was allocated to the cadre of Ministry of Communications. Admittedly, the applicant was appointed as Desk Officer w.e.f. 23.7.1990 and was posted in the Department of Posts. Thereafter, the Ministry of Communications was bifurcated by an executive order dated 18.5.1994. The applicant was given an option to opt for either the Department of Posts or the Department of Telecommunications. He had given his option on 3.6.1994 for allocation to the Department of Telecommunications (Annexure R-IV). Further to his option, the applicant was posted as Section Officer in the Department of Telecommunications w.e.f. 19.12.1994. The applicant's grievance is that he was only appointed as Section Officer in the office of respondents w.e.f. 19.12.1994 instead of continuing him as Desk Officer, which has deprived him the status of the said post and also caused him a financial loss of Rs.150/-p.m. This, according to him, is reduction in rank for which the respondents have not followed the provisions of Article 311(2) of the Constitution of India. He has also alleged that the action of the respondents is discriminatory and bad in law as he ought to have been continued as Desk Officer, which post he held in the Department of Posts prior to the bifurcation of the Ministry w.e.f. 18.5.1994.

4. We have seen the reply filed by the respondents and heard Shri V.K. Mehta, learned counsel.

5. He has drawn our attention to the Central Secretariat Service Rules, 1962 (hereinafter referred to as 'the Rules') and the order dated 18.5.1994 passed in pursuance

of Rule 22 of the Rules. In the order, it has been mentioned that two separate cadres have been constituted by the competent authority in the Ministry of Communications, namely, the Department of Posts cadre and the Department of Telecommunications cadre in respect of the CSS, Central Secretariat Stenographers' Service (CSSS) and the Central Secretariat Clerical Service (CSCS). Learned counsel has submitted that the contention of the applicant that he continues in the same cadre is erroneous because the applicant had given an option that he be allocated to the other cadre, namely, the Department of Telecommunications. He, therefore, submits that the applicant cannot be considered to continue in the same cadre in which he was at the time of appointment as Desk Officer in the Department of Posts earlier, after he had opted to be allotted in the other cadre of CSS i.e. the Department of Telecommunications. Shri V.K. Mehta, learned counsel has also submitted that the post of Desk Officer is not a promotional post. He has further submitted that for empanelment of Desk Officers in the Department of Telecommunications, the competent authority had considered the applicant along with other candidates and placed the suitable candidates in the panel of Desk Officers during February, 1996. The recommendation of the DPC had been done as per the relevant rules and instructions and according to the requirements at that time in forming the panel. Learned counsel has, therefore, submitted that the applicant cannot claim "Promotion" to the post of Desk Officer or empanelment in that post as a matter of right merely because he had been working as Desk Officer prior to 1994 in the Department of Posts. He has, therefore, submitted that there is no merit in this application and the same may accordingly be dismissed.

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6. We have also perused the rejoinder filed by the applicant to the counter affidavit filed on behalf of the respondents.

7. The main contention of the applicant in this case appears to be that since the respondents have admitted that he had worked as Desk Officer at the time of bifurcation of the cadre, they cannot deny him this post in the new cadre i.e. <sup>in the</sup> the Department of Telecommunications. We are unable to agree with this contention because it is clear from a perusal of Rule 2 of the Rules read with the order passed by the competent authority, that is DOP&T dated 18.5.1994, that two separate cadres have been constituted in the Ministry of Communications, namely, the Department of Posts cadre and the Department of Telecommunications cadre in respect of the CSS. It is also evident that the applicant himself had exercised his option on 3.6.1994 to be allotted to the Department of Telecommunications cadre. Therefore, the contention of the applicant that he should automatically be continued as Desk Officer in the new cadre is not tenable as the same would be contrary to the Rules and the order dated 18.5.1994. In the circumstances, the appointment of the applicant as Section Officer in the office of Respondents, i.e. Department of Telecommunications w.e.f. 19.12.1994 cannot also be faulted. It is also relevant to note that the Department had considered the applicant's case for empanelment as Desk Officer in February 1996, but he was not found suitable. In the circumstances of the case, the applicant's contention that the respondents have discriminated against him or have not considered his case in accordance with

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the Rules cannot be accepted as we find that the action taken by them is in accordance with the Rules and the order dated 18.5.1994.

8. For the reasons given above, we find no merit in this application. The same is accordingly dismissed. No order as to costs.

*M.P. Singh*  
(M.P. Singh)  
Member(A)

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

'SRD'