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Central Administrative Tribunal, Principal Bench

Original Application No. 2484 of 1996

New Delhi, this the 10th day of July, 2000

Hon'ble Mr. Justice Ashok Agarwal Chairman
Hon'ble Mr. V.K. Majotra, Member (Admnv)

B.P. Kaushik, S/o Sh. S.R. Kaushik, M.T.N.L.,
Jeewan Bharti Building, 12th Floor, New Delhi. - Applicant

(By Advocate Shri G.S. Vasisht)

Versus

1. Union of India, Ministry of Telecommunications, Through its Secretary, Sanchar Bhawan, New Delhi.
2. Delhi Telephones (M.T.N.L.) through its Chief General Manager, Khurshid Lal Bhawan, New Delhi. - Respondents

(By Advocate Shri V.K. Rao)

O R D E R (Oral)

By V.K. Majotra, Member (Admnv) -

Starting his career as a Sorter in Delhi Railway Mail Service on 1.12.1957 the applicant was appointed as Accounts Officer on promotion on 19.7.1984. A criminal case was registered against him in 1990 on allegation of fraud. However, it is claimed that no action was taken against him departmentally. According to the applicant vide memo dated 25.3.1992 (Annexure-III) his junior Shri R.N. Goel, Accounts Officer was promoted as Chief Accounts Officer on local officiating basis ignoring the case of the applicant for promotion. Later on 5 more persons who were junior to the applicant were also promoted between April-November, 1992 as Chief Accounts Officer on similar basis vide Annexure-V (colly). The applicant has alleged that under similar circumstances one Shri K.L. Narula Accounts Officer was promoted as Chief Accounts Officer with effect from 30.9.1991. It has been contended that pendency of disciplinary proceedings cannot be made a

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ground to deny promotion. The applicant has sought promotion as Chief Accounts Officer with effect from 25.3.1992 - the date when his immediate junior was promoted to the said post. He has also sought consequential benefits from the aforesaid date.

2. In their counter the respondents have stated that no post of Chief Accounts Officer has been filled on regular basis. Applicant's juniors were promoted only on adhoc basis by giving them local officiating promotion without convening any DPC. Had his juniors been given promotion on a regular basis before service of charge-sheet against the applicant, he could have been aggrieved, but local officiating promotion on adhoc basis of juniors without convening any DPC cannot put the applicant to any grief. Apart from registering a criminal case against the applicant, a charge-sheet was issued against the applicant on 8.10.1993. As regards promotion of Shri K.L.Narula, Accounts Officer, the respondents have stated that he had been accorded vigilance clearance vide letter dated 18.9.1991 before he was promoted.

3. We have heard the counsel of both sides and also perused the material on record.

4. The applicant was ultimately promoted as Chief Accounts Officer with effect from 27.4.1995 vide order dated 28.4.1995. He retired on 30.4.1995. It has been claimed on behalf of the applicant that he should be deemed to have been promoted with effect from 25.3.1992 when his junior was promoted so that he can get the consequential benefits from 25.3.1992 to 26.4.1995 when he was actually promoted. Vide memo dated 26.4.1995 the

charges levelled against the applicant were dropped ^{just} ~~before~~ ^{by} the applicant ~~he~~ retired from service on 30.4.1995.

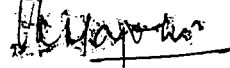
5. The issue for consideration in these circumstances is what the effect of dropping of the charges against the applicant would be on his promotion as Chief Accounts Officer. The learned counsel of the respondents stated that in the matter of adhoc promotion by way of local officiating arrangement the concerned employee cannot be considered for promotion when vigilance clearance is denied to him. On the other hand when regular promotion by holding a DPC is under consideration, a sealed cover procedure has to be adopted under the rules when an enquiry is pending against him and vigilance clearance is withheld. The learned counsel of the respondents also maintained that no junior to the applicant had been given regular promotion before the date of promotion of the applicant. The learned counsel of the applicant admitted that no junior to the applicant had been accorded regular promotion as Chief Accounts Officer before the applicant.

6. In the circumstances, when no junior to the applicant had been accorded promotion on regular basis as Chief Accounts Officer before the applicant, it cannot be said that the applicant had been meted out any discriminatory treatment. He could not have been given promotion on local officiating basis along with his juniors when vigilance clearance was withheld for him under the rules. Dropping of the charges against the applicant on 26.4.1995 ^{by} is also of no help to the applicant in ante-dating his local officiating promotion

to 25.3.1992. His immediate junior was given promotion as Chief Accounts Officer from 25.3.1992 on local officiating basis not resulting in acceleration of seniority over the applicant as Chief Accounts Officer.

7. In the result, we find that the present O.A. is devoid of merit. The same is accordingly dismissed with no order as to costs.


(Ashok Agarwal)
Chairman


(V.K. Majotra)
Member (Admnv)

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