CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1428 of 1997

NEW DELHI, THIS THE 3ᵈᵏ DAY OF JUNE, 1997.

HON'BLE MR.JUSTICE K.M.AGARWAL,CHAIRMAN
HON'BLE MR. S.R.ADIGE,MEMBER(A)

Shri Mahender Kumar Wadhwa,ITS
Staff No.8003
Asstt.Director General (CX)
Office of the Director General,
Department of Telecommunications
612, Sanchar Bhavan, 20,Ashoka Road,
New Delhi-110001.

....Applicant

(BY ADVOCATE SHRI M.M.SUDAN)

vs.

1.   Union of India
        Through the Secretary
        Ministry of Communication
        Department of Telecommunications
        Sanchar Bhavan, 20 Ashoka Road
        New Delhi-110001.

2.   The Director General
        Government of India
        Ministry of Communication
        Department of Telecommunications
        Sanchar Bhawan, 20 Ashoka Road
        New Delhi-110001.

3.   The Desk Officer (Vig.II)
        Government of India
        Deptt.of Telecommunications
        West Block No.1, Wing No.2
        Ground Floor, R.K.Puram
        Sector I
        R.K.Puram
        New Delhi-110066.   ......   Respondents

ORDER

JUSTICE K.M.AGARWAL:

        The applicant, an Assistant Director General (CX) in the

office of the Director General of Telecommunications, wants a

direction for his Ad-hoc promotion after quashing the charge-sheet

dated 30.11.1994 (Annexure A-1) and the orders dated 30.12.1996 and

18.2.1997 (collectively marked as Annexure A-3), rejecting his

representation for Ad-hoc promotion to JAG of ITS.Group A.

2.   Admittedly, the applicant is facing a Departmental Enquiry for deliberately violating the instructions regarding arrangement of Passwords and Grouping of various commands into different 'classes and for causing meter reading washing in respect of telephone Nos.277277 and 277299 belonging to single subscriber for the period 15-2-1992 to 15-6-1992. The charges are serious in nature and were served on 30-11-1994 on the applicant, but the learned counsel argued that due to delay in conclusion of enquiry, the impugned charge-sheet deserved to be quashed and in consequence, or in the alternative, claimed Ad-hoc promotion to JAG of· ITS Group A. Reliance was placed in Union of India etc. etc. vs. K.V.Jankiraman,etc.etc.,AIR 1991 SC 2010; and State of Punjab and Others vs. Chaman Lal Goyal,(1995) 29 ATC 546(SC).

3.   We find no substance in the contentions. Firstly,delay itself may not be sufficient to quash the charge-sheet and secondly, there is no such delay as to warrant any conclusion of prejudice or fatal to the continuance of the Enquiry. The respondents rightly rejected the representations of the applicant on the ground that pending disposal of vigilance case and the charge-sheet against him, he could not be granted Ad-hoc promotion and, therefore, the impugned orders call for no interference. The two cases of the Supreme Court relied on by the learned counsel do not help the applicant. In the first case, it was held that the pendency of preliminary investigation prior to the stage of charge-sheet or charge-memo was not sufficient to exclude an employee from consideration for promotion or for following the sealed cover procedure. In the second case, it was held that the question whether delay in service of charge-sheet vitiated the charges could be decided by the balancing process i.e.weighing the factors for and against and taking decision on the totality of circumstances. In that case, there was delay of 5-½ years in charge-sheeting the officer. Even then, it was not considered a fit

case for quashing the Departmental Enquiry. It was held that in the circumstances, the delinquent officer could have been considered for promotion and if found fit, could be promoted subject to the result of Departmental Enquiry. The first case is not applicable, because charge-sheet has already been served on the applicant. The second case is quite distinghishable. Here the delay is not such as to entitle the applicant to promotion subject to result of Departmental Enquiry.

4.   For the aforesaid reasons, this application is hereby summarily dismissed.

(K.M.AGARWAL)
Chairman

(S.R.ADIGE)
MEMBER(A)

sns