

(29)

Central Administrative Tribunal
Principal Bench

O.A. No. 1645 of 1997

New Delhi, dated this the 11 February, 2000

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mr. Kuldip Singh, Member (J)

Shri O.P. Chaudhary,
S/o Shri Harbans Singh,
R/o D-12, West U.P. Nagar,
Loni Road, Shahdara,
Delhi-110092. ... Applicant

(By Advocate: Mrs. Meera Chhibber)

Versus

1. Union of India through
the Secretary,
Ministry of Telecommunication,
Sanchar Bhawan, New Delhi.
2. Chairman,
Dept. of Telecommunication,
Sanchar Bhawan, Ashok Road,
New Delhi. ... Respondents

(By Advocate: Shri V.K. Rao)

ORDER

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant seeks a direction to respondents to put him to the promotional post of TES Group B w.e.f. the same date as his juniors were promoted with consequential benefits.

2. This O.A. was heard, and thereafter dismissed by order dated 21.4.98. Thereupon applicant filed R.A. No. 114/98 seeking review of the aforesaid order dated 21.4.98. After hearing both sides, the Tribunal was satisfied that there were errors apparent on the face of the order dated

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21.4.98 in O.A. No. 1645/97 and the R.A. came within the purview of Section 22(3)(f) A.T. Act read with Order 47 Rule 1 C.P.C. Accordingly the order dated 21.4.98 was recalled and the O.A. has been heard afresh.

3. Admittedly, a DPC met in May, 1994 to consider cases of promotion of Junior Telecom Officers to TES (Group B). When the DPC met, applicant was under deemed suspension vide Order dated 8.4.94 (Annexure P11) consequent to his having been detained in custody on 18.2.94 in a C.B.I. case ^{owing} to his alleged involvement in operating STD/ISD/PCO on unauthorised basis on cheap rates by misusing MTNL Telephones. However, the DPC ^{recommended} did ~~not~~ applicant's case for promotion, and applicant was promoted along with others by order dated 27.5.94 ^(Ann P-1). Paragraph 3 of the order stated that in case any disciplinary/vigilance case was pending against any of the officials mentioned in the list, or where in respect of any of them any punishment like stoppage of increment/promotion etc. was current, the matter was to be reported immediately and the concerned officer was not to be promoted or relieved without specific orders of respondents.

4. On 20.9.94 the suspension was lifted (Annexure P-III).

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5. Sanction for prosecution in the CBI case is stated to have been accorded on 28.8.98, but admittedly no charge sheet in that case has been filed as yet, and applicant has also not been served with a charge Memo in any departmental proceedings so far.


6. Shri V.K. Rao relies on Paragraph 7 of DP&T's O.M. dated 14.9.82 (Annexure PV) to justify the continued denial of promotion to applicant, but as pointed out by Mrs. Chhibber, this paragraph has no application, because this ^{is a} not a case where the circumstances mentioned in Paragraph 2 of that O.M. arose after the DPC's recommendations were received, but before he was actually promoted. Indeed Mrs. Chhibber points out that applicant's name has not been deleted from respondents' order dated 27.5.94 as yet, which shows him as promoted to TES Group B and even in respondents' final seniority list dated 24.10.97 (copy taken on record). Applicant is shown as promoted to TES Group B.

7. During hearing Mrs. Chhibber relied upon a number of rulings including Union of India Vs. K.V. Janaki Ramen 1991 (4) SCC 109; State of Gujarat Vs. S.S. Shah SLJ 1998 (10) 66; Chotu Ram Vs. Union of India & Ors. 1997 (36) ATC 45; and State of Andhra Pradesh Vs. Radha Krishnan 1998 (4) SCC 54.

8. In our view the ruling in Chotu Ram's case (supra) is squarely applicable to the facts and circumstances of the present case, and indeed, applicant's case stands on an even better footing, because in Chotu Ram's case (supra) a charge memo was issued to him under Rule 14 CCS (CCA) Rules, 1965 on 8.6.94, but in the present case, admittedly no charge memo has been served on applicant in any D.E. as yet. Nothing has been shown to us to establish that the aforesaid order dated 20.12.96 in Chotu Ram's case (supra) has been stayed, modified or set aside.

9. In the result the O.A. succeeds and is allowed. Respondents should implement their own order dated 27.5.94 with respect to applicant, within two months from the date of receipt of a copy of the order, with such consequential benefits as will accrue to him in accordance with rules, instructions and judicial pronouncements. No costs.


(Kuldip Singh)
Member (J)


(S.R. Adige)
Vice Chairman (A)

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