

Central Administrative Tribunal
Principal Bench

O.A.No.81/94

(3)

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 28th day of July, 1999

Shri R.P.Chawla
s/o late Shri Dhanpat Rai
aged about 56 years
Asst. Supdt. Telegraph (Traffic)
Telegraph Office, Paharganj
New Delhi
r/o C-2-C, Pocket 12
Flat No.8, Janakpuri
New Delhi - 110058. ... Applicant

(By Shri M.L.Chawla, Advocate)

Vs.

1. Union of India
through the Secretary
to the Govt. of India
Ministry of Communication
Sanchar Bhawan, Ashoka Road
New Delhi - 110 001.
2. The Chairman
Telecom Board
Department of Tele-communication
Ministry of Communication
Sanchar Bhawan, Ashoka Road
New Delhi - 110 001.
3. The Chief General Manager (Maintenance)
Northern Telecom Region (NTR)
Kidwai Bhawan, Jan path
New Delhi - 110 001.
4. Shri Ram Singh
Asst. Superintendent
Telegraph (Traffic)
Central Telegraph Office
Eastern Court, New Delhi-110 001. ... Respondents

(By Shri E.X.Joseph with Shri S.S.Sabharwal,
Advocates)

O R D E R (Oral)

Hon'ble Shri R.K.Ahooja, Member(A)

The applicant while working as an Assistant Superintendent Telegraph (Traffic), Group 'C', was approved for promotion by the Departmental Promotion Committee (DPC) and placed at S1. No.29 amongst 36 officers in the selected panel for promotion to TTS Group

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'B'. The applicant was thereafter posted to Uttar Pradesh Circle (UP Circle) but as this allocation was not accepted by the applicant he made a representation to the Department that as he was due for superannuation on 30.4.1995 and had only two years of service left, he may be retained in New Delhi itself. This request, as similar requests made by some of his colleagues whose names also figured in the select list, were rejected by the respondents. Thereafter, the applicant gave a conditional refusal for promotion as per Annexure A-4 stating that though he was declining the promotion to TTS Group 'B', if a vacancy become available at Delhi, he should be considered for the same. The respondents however directed that he should either report at his new place of posting or decline to his promotion unconditionally. It appears that the applicant thereafter submitted an unconditional refusal to accept promotion. On that the respondents vide their order dated 1.10.1993 debarred him from promotion for a period of one year. The applicant submits that one Shri Inderjit Sharma, who had also similarly declined promotion was later adjusted by the respondents in a vacancy in Delhi. He further submits that the respondents had earlier promoted one Shri Ram Singh, who at that time had not even been approved for promotion to TTS Group 'B' post on ad hoc basis ignoring the claim of the applicant. On this ground, the applicant seeks a direction to the respondents to promote him from the same date as his next junior on the panel.

2. The respondents have denied the allegations of the applicant. They submit that as the applicant had declined promotion and had been debarred for further

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promotion for a period of one year, he could not be considered for the ad hoc promotion. In so far as Shri Inderjit Sharma is concerned, the stand of the respondents is that after a representation was received from the him, it was found that one of the officers who had been transferred to Delhi was not available and hence it was decided to adjust Shri Inderjit Sharma in the resultant vacancy.

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3. The learned counsel for the applicant has drawn our attention to the orders of the respondents at Annexure A-5 in which it is stated that as it is not feasible to defer the promotion of S/Shri D.P.Rattan, Inderjit Sharma and R.P.Chawla, i.e., the applicant the officers may be directed to join in their new assignment in UP Circle or in the alternative should decline their promotion unconditionally. The learned counsel for the applicant submitted that even after this communication dated 1.6.1993, the respondents by their letter, Annexure A-6 decided to post Shri Inderjit Sharma at New Delhi though they debarred the applicant from promotion by refusing to adjust him in a vacancy which was available in Delhi. It was also pointed out that the promotion of Shri Ram Singh on an ad hoc basis clearly indicated that a vacancy was available even after the adjustment of Shri Inderjit Sharma against which the applicant could have been promoted.

4. We find that the main issue raised here is whether the refusal of the applicant to accept regular promotion also debars him for consideration for promotion on an ad hoc basis in preference to an officer whose name did not figure in the select panel for promotion. The

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case of the applicant is that the circumstances in which he was compelled to submit his refusal were related to his posting out side Delhi and a conclusion could not be drawn that he was altogether uninterested in his promotion. It was only under compelling circumstances that he had declined the promotion as it involved leaving Delhi for U.P.Circle. Be that as it may, the fact remains that the applicant had given an intimation to the respondents that he was declining his promotion. In fact, an earlier communication, Annexure A-4 in which he had given an option for promotion at Delhi, had not been accepted by the respondents. In other words, the second communication refusing promotion was given in full knowledge of the fact that he will not be considered for promotion even if a vacancy became available in Delhi. In these circumstances, we feel that the respondents could not be faulted for over looking the applicant when a vacancy arose and ad hoc arrangements were made. If the respondents had promoted the applicant even on an ad hoc basis this could have defeated their policy which required that either a person should report to his new place of posting on promotion or in the alternative forego his promotion altogether.

5. The learned counsel for the applicant submitted that Shri Ram Singh though reverted on the arrival of Shri Inderjit Sharma was again promoted in October, 1993 upon the retirement of Shri Inderjit Sharma. At least at that stage the applicant could have been considered for promotion. He also submitted that the respondents have after considering the case of the applicant ultimately granted him promotion from 1.9.1994 and the claim of the applicant is now limited to the

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notional refixation of pay resulting in better retiral benefits. In our view the promotion of Shri Ram Singh either before the arrival of Shri Inderjit Sharma or after the retirement of Shri Sharma remains on the same footing in so far as the applicant is concerned. If the applicant was ineligible for promotion on an ad hoc basis, at the time when Shri Ram Singh was promoted, he was equally ineligible at that time Shri Inderjit Sharma retired from the service.

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6. In the light of the above discussion, we find no ground for interference. The OA is accordingly dismissed. No costs.

~~R.K.AHOJA~~
(R.K.AHOJA)
MEMBER(A)

~~/rao/~~

~~V.Rajagopal Reddy~~
(V.RAJAGOPALA REDDY)
VICE-CHAIRMAN(J)