

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA No.2819/1992

New Delhi this the 27th day of March, 1998.

Hon'ble Smt.Lakshmi Swaminathan, Member(J)
Hon'ble Shri K.Muthukumar, Member(A)

Shri Mohd.Yamin Khan
S/O Sh.Mohd.Sher Khan
employed as Technician
O/O AEE(T)-II CTO, New Delhi
R/O Delhi address for service of
notice C/O Sh.Sant Lal Advocate,
C-21(B), New Multan Nagar,
Delhi-110056.

..Applicant

(By Advocate Shri Sant Lal)

Vs

1.The Union of India, through
the Secretary, Ministry of Communication,
Department of Telecommunication,
Sanchar Bhawan, New Delhi-110001.

2.The Chief General Manager(Maintenance),
N.T.R. Bhawan, New Delhi-110050.

(By Advocate Sh.R.P.Aggarwal)

..Respondents

O R D E R

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

The applicant has sought directions to quash the impugned order dated 11.8.1992 issued by the respondents rejecting his representation for promotion to the post of Telecom. Technical Assistants(TTA) in 1991. He has also sought direction to review his case and grant him promotion as TTA from the date his immediate junior was promoted with consequential benefits.

2. We have heard the learned counsel for the parties and perused the pleadings.

3. Under the Department of Telecommunications, TTA, Recruitment Rules, 1991, the post of TTA is stated to be a selection post. Relevant portion of Col.11 to the Schedule of the Rules to this post provides as follows:

fi

By promotion on the basis of seniority-cum-fitness from amongst the following category of departmental employees possessing minimum qualification of 3 years diploma in Electrical/Mechanical/Radio/Telecom./Electronic Engineering awarded by any technical institute recognised by the Central/State Government after 10th standard.

- (i) All Group 'C' employees borne on the regular establishment in the Telecom.Engineering Branch of the Department.
- (ii) All Group 'D' employees borne on the regular establishment in the Telecom.Engineering Wing of the Department."

Note 2 below Col.11 also provides that the seniority in the select list is drawn on the basis of the promotion by seniority-cum-fitness referred to under para(1) above and to be determined in the order mentioned therein.

4. Shri Sant Lal, learned counsel for the applicant has submitted that in the Recruitment Rules referred to above, as well as in the impugned letter issued by the respondents dated 11.3.92 it is mentioned that the Recruitment of TTA is done on the basis of seniority-cum-fitness by the DPC. He has submitted that contrary to the provisions of the Rules, the reply was filed by the respondents on 15.7.93 after the case was admitted on 11.11.92 that the promotion to the post of TTA being a selection post, a bench mark was kept to consider the eligible candidates. The respondents have submitted copies of DPC meetings held on 26.5.92 and 27.5.92 and the Review DPC meeting held on 16.3.93 which are placed on record. In the DPC meeting held on 27.5.92 we find that there is no mention of any bench mark, but in the review DPC meeting held on 16.3.93 it has been stated that the post being a selection one, a bench mark as per the rules was kept to consider the eligible candidates.

...3/.

(21)

5. Shri R.P. Aggarwal, learned counsel for the respondents has submitted that as seen from the details of the Review DPC proceedings, the applicant's case had also been rejected by the DPC held on 27.5.92. He submits that the DPC and Review DPC have adopted the method of 'bench mark' as it was a selection post which is in accordance with the Recruitment Rules, and it was, therefore, open to the DPC to adopt their own criteria of bench mark.

6. In Col.5 of the Schedule to the Recruitment Rules, the post of TTA is mentioned as a selection post which is followed by Col.11, in which it has been stated that the selection for promotion is on the basis of seniority-cum-fitness. Shri R.P. Aggarwal, learned counsel for the respondents has submitted that there are no other papers dealing with DPC proceedings held on 27.5.92 or 16.3.93 other than those placed on record. In the DPC held on 27.5.92 it has been stated that the CRs have been scrutinised and the officials have been selected as per annexed list on the basis of length of service, subject to further administrative checks and verification of original documents. This, however, does not mention any 'bench mark' or reasons why the applicant has been found unfit for promotion as TTA. The respondents have admittedly promoted the persons junior to the applicant. In the circumstances we are unable to agree with the contention of the learned counsel for the respondents that the criteria laid down in Col.11 in the Recruitment Rules, namely, promotion on the basis of seniority-cum-fitness is not to be followed, as it is a selection post in which merit ~~alone~~ counts, followed by seniority. In the absence of such provisions in the Recruitment Rules, the respondents ought to have given effect to the criteria of promotion based on seniority-cum-fitness. In the DPC held on 27.5.92, there is no indication

P.

22

that the DPC had come to the conclusion that the applicant was found **unfit** for promotion as TTA. To that extent, the DPC proceedings with regard to the applicant are not in accordance with the rules.

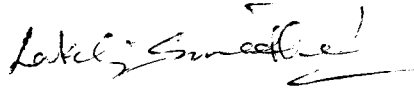
7. In the facts and circumstances of the case, the application ~~partly~~^{is} succeeds to the following extent:

The impugned order dated 11.8.92 is quashed and set aside. The respondents are directed to hold Review DPC and consider the case of the applicant strictly in accordance with the Rules on the basis of seniority-cum-fitness. This shall be done within three months from the date of receipt of a copy of this order.

O.A. disposed of as above. No order as to costs.



(K.Muthukumar)
Member(A)



(Smt.Lakshmi Swaminathan)
Member(J)

sk