

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

M.A.No. 3427/94  
CP 193/94  
OA 3235/92

(24)

New Delhi, This the 14th Day of November 1994

Hon'ble Shri Justice S.C.Mathur,Chairman

Hon'ble Shri P.T.Thiruvengadam,Member(A)

B.L.Sapru s/o Shri Prithvi Nath Sapru  
S/o A-17, Hillview Apartments, Vasant Vihar,  
New Delhi 110 057.

....Applicant

By Applicant in person

Versus

1. Union of India  
through: Secretary, Shri N Vittal  
Telecom Commission  
Sanchar Bhavan  
New Delhi.
2. Shri D.C.Mehrol  
Chief General Manager Telecom  
Defence Communication, SCO 68, IIIrd Floor,  
Sector:17D, Chandigarh 160 017.
3. Shri M.C.Trehan, CGM, Telecom  
J & K Circle, Camp Jammu Tawai - 180001.

..Respondents

By Shri P.H.Ramachandrami Sr Counsel with  
Shri J.C.Madan, Advocate

ORDER

Hon'ble Shri P.T.Thiruvengadam,Member(A)

1. The applicant had filed OA 3235/92 claiming promotion to the scale of Rs.2200-4000 on the basis of the scheme evolved by the Department of Telecommunications letter 25.9.90. The OA was disposed of by an order dated 11.2.94 with the following directions:-

"We therefore direct that the Review DPC shall be held to consider the case of the applicant for giving him the benefit of the scheme.....

The Review DPC while considering the case of the applicant shall bear in mind

the contents of the office Memorandum dated 30.1.1978 and para (v) in particular thereof."

The respondents had accordingly considered the case of the applicant and issued a letter 12.5.94 (Annexure CP3) which reads as under:

"Subject: Promotion of AE to Sr.AE-case of  
Shri B L Sapru, retired AE, Defence  
Communications Circle, Chandigarh

In pursuance of CAT New Delhi's order dated 11.2.1994 in the judgement pronounced in the OA No.3235/92, a special review screening committee meeting was held on 3.5.94 to consider the promotion case of Shri B L Sapru retired AE Defence Communications Circle, Chandigarh for his promotion from AE to Sr.AE's grade.

The special Review screening committee has not found Shri B L Sapru fit for promotion from AE to Sr.AE's grade. The undersigned being the competent authority in the case accept the recommendations of the Review Committee and as such, disallow the benefit of promotion, to Shri B L Sapru, to the Senior AE's grade."

2. CP 193/94 has been filed for the alleged disobedience of the orders quoted above. MP 3427/94 with reference to the CP has been filed with a prayer for promoting the applicant and for the disposal of the CP taking into account the various documents filed in the MA as well as the rejoinder to the CP. We have perused the documents mentioned by the petitioner.

3. The contempt petition has been filed basically on the following grounds:

(i) The respondents have considered the case of the applicants by constituting a special review screening committee in contrast to the review DPC as ordered by this Tribunal on 11.2.94.

(ii) The Review DPC had been directed to bear in mind the contents of the office memorandum dated 30.1.78. The applicant has been harbouring doubts as to whether this direction was kept

in view.

(iii) The applicant should have been considered for promotion as per procedure in existence as in 1991 and not as per the procedure laid down in the letter of 18.8.92 with regard to grant of promotion from the post of AE to Senior AE.

4. The grounds raised have been countered by the

respondents by bringing out that there is no distinction between screening committee and DPC.

Reference was invited to the copy of the instructions issued by the Department of Telecommunications on

25.9.90 and 14.8.92. In the earlier letter the

procedure for selection of the post of Senior AE

and the action to be taken for filling up of the

posts initially on adhoc basis by eligible candidates

based on seniority subject to rejection of unfit

had been mentioned. In the latter letter of 14.8.92

the procedure for regularising the adhoc appointments

authorised in the earlier letter was spelt out. The

instructions in the letter of 14.8.92 stipulate

that a screening committee at the appropriate level

will be constituted for placement of eligible

candidates on regular basis. It is the contention

of the respondents that as per these instructions

a review DPC comprising General Manager (D) Haryana

Telecom Circle, General Manager(D) Punjab Telecom

Circle, and Deputy General Manager, Haryana Telecom

Circle was constituted with the specific approval

of the competent authority by order dated 22.4.94.

In this order the committee has been named as a

Review DPC. In the circumstances we are satisfied

that the constitution of the special committee to

go into the case of the promotion of the applicant

can in no way be faulted. What is important is the

pith and substance rather than the form.

5. As regards the direction that the Review DPC shall bear in mind the contents of the office memorandum dated 30.1.78 and particularly para 5 we note that this memorandum has been issued on the subject of confidential reports. The time frame in which the CRs are to be written and how the adverse remarks are to be handled form the subject matter of this memorandum. Para(v) of the memorandum reads as under:

"All representations against adverse remarks should be decided expeditiously by the competent authority and in any case, within three months from the date of submission of the representation. Adverse remarks should not be deemed as operative, if any representation filed within the prescribed limit is pending. If no representation is made within the prescribed time, or once this has been finally disposed of, there would be no further bar to taking notice of the adverse entries."

It was argued by the applicant in person that as far as his CRs were concerned, the DPC could not have found him wanting. We called for the DPC proceedings and we have noted that the attention of the Review DPC/screening committee was drawn to the contents of the OM dated 30.1.78. We also pursued the CR ratings of the applicant. CRs for the year 86-87 onwards upto 1990-91 were taken into account by the special committee. The relevant summary of the ACRs was read out by the learned counsel for the respondents. For the year 1986-87 there is a remark to the effect that the applicant was not suitable for installation job. For the year 1987-88 there is a remark that the applicant is only fit for office job. For the year 1988-89 certain adverse remarks were communicated but these were subsequently expunged and the fact of expunging had been put up to the special committee. For the year 89-90 certain adverse remarks were communicated but the appeal against such adverse remarks

was rejected only in the year 1993. The applicant claimed that the later disposal of the representation against adverse remarks should result in deemed expunging of such remarks. We cannot accept this contention, as no such condition has been stipulated in the OM of 30.1.78 on which the applicant had placed reliance. For the year 90-91 the applicant's rating is average. In the circumstances, even this ground has to be rejected.

6. As regards his contention that the applicant should have been considered as per the procedure in vogue as in 1991 we have already observed that the instructions of 25.9.90 merely authorised adhoc promotion and even that for only the eligible candidates based on seniority subject to rejection of unfit. Regular promotion was to be ordered only as per the instructions of 14.8.92. The orders of this Tribunal were to the effect that the applicant should be considered by a review DPC to give him the benefit of the scheme. We have gone through the CRs and the proceedings of the special screening committee. We are satisfied that the applicant was denied promotion on consideration of relevant material.

7. In the circumstances, the contempt petition is dismissed. The notice regarding contempt on the respondents is discharged. There shall be no order as to costs.

P.T.T.

(P.T. THIRUVENGADAM)  
Member(A)  
14 Nov 94

LCP

S.C.MATHUR  
Chairman  
Nov 94