

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

OA 788/92

28

New Delhi this the 23th day of September, 1997.

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

Hon'ble Shri S.P. Biswas, Member(A)

Shri H.R. Bashal,
S/O Shri K.R. Bashal,
A-57, Panchsheel Enclave,
New Delhi-17

(By Advocate Shri A.K. Bhardwaj)

Applicant

VS

Union of India through

1. The Secretary,
Department of Telecommunications,
Ministry of Communications,
Sanchar Bhawan, 20,
Ashoka Road, New Delhi-1
- 2 The Director(ST-II)
Govt. of India., Telecom. Commission,
Sanchar Bhawan,
20, Ashoka Road, New Delhi-1

(By Advocate Shri Madhav Panikar)

Respondents

ORDER(ORAL)

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

The applicant has impugned the orders passed by the respondents dated 26.6.90 and 3.3.92 and he has alleged that they have illegally withheld his promotion to the Junior Administrative Grade of Indian Telecommunication Service Group 'A' though he was otherwise eligible and qualified to be promoted.

2 During the hearing, Shri A.K. Bhardwaj, learned counsel for the applicant has submitted that the applicant confines to his grievance to the order dated 26.6.90 whereby 50 officers of the Senior Time Scale of ITS Group 'A' were promoted on purely temporary and ad hoc basis for which the applicant had been ignored for promotion. The main contention of the learned counsel

28

(29)

was that since the promotion of the officers by this order was on purely temporary and ad hoc basis, the applicant ought to have been considered for promotion on purely seniority-cum-fitness basis. He submits that this has not been done as the respondents have wrongly considered the officers on comparative basis which is against the laid down Rules/instructions. He has referred to the MHA DP&AR O.Ms dated 30.4.83 and 30.9.83 regarding criteria for ad-hoc promotion, reproduced at page 203 of the Swamy's Complete Manual IV Edition, 1993. The relevant portion of this O.M. provides that where ad-hoc appointment is by promotion of the officers in the feeder grade, it may be done on the basis of seniority-cum-fitness, even where promotion is by selection method, as under:

- (A) Ad hoc promotion may be done only after proper screening by the appointing authority of the records of the officer.

Learned counsel, ^{18.} ~~therefore~~, submits that the respondents ought not to have taken into consideration any chargesheet/punishment orders that might have been passed against the applicant or adverse entries in his ACRs, but since admittedly he was senior to one Shri S.P.Singh who ^{was} also a Scheduled Caste candidate, the applicant ought to have been promoted by the impugned order dated 26.6.90. He has referred to the seniority list dated 25.9.90 in which the applicant is at Sl.No.114 and Shri S.P.Singh is at Sl.No.115. The applicant, therefore, prays that he may be declared as having been promoted w.e.f. 26.6.90 when his junior Shri S.P.Singh was promoted. Admittedly, the applicant has been promoted on purely temporary and ad hoc basis in 1993 to the Junior Administrative Grade and has since retired in 1994.

18.

30

3. The respondents have filed their reply in which they have controverted the above facts. We have also heard Shri Madhav Panikar, learned counsel for the respondents. The respondents have submitted that the applicant, along with other eligible officers, was also considered for promotion to the Junior Administrative Grade of ITS Group 'A' on purely temporary and ad-hoc basis on 26.6.90 but the applicant could not be promoted because the appointing authority after assessing his confidential records adjudged him 'not yet fit'. Shri Madhav Panikar, learned counsel has submitted that since the applicant had been duly considered for promotion but found 'not yet fit' by the competent authority based on the ACRs, there is no infirmity in the impugned order dated 26.6.90.

4. We have carefully considered the pleadings and the submissions made by the learned counsel for both the parties. From the DP&AR OMs dated 30.4.83 and 30.9.83 relied upon by the applicant, it is seen that for ad-hoc promotion of officers from the feeder grade, as in the present case, it has to be done on the basis of seniority-cum-fitness. Further, the ad-hoc promotions have to be made after proper screening of the records of the officers by the appointing authority. This could only mean that the ACRs of the officers can be looked into by the appointing authority in considering officers for ad-hoc promotions. From the reply filed by the respondents it is seen that the applicant had been found 'not yet fit' for promotion after assessment of his records by the appointing authority. In the facts and circumstances of the case, therefore, the contention of the learned

js

(31)

counsel that there is any illegality or infirmity in the impugned order is without any basis and it is accordingly rejected. The case relied upon by the applicant, M.L. Tripathi Vs. UOI (1987(4)ATC 69) has also no application in the present case, as the applicant in that case had no adverse entries in the ACRs and he was allowed to cross the Efficiency Bar, whereas the applicant in the present case had adverse entries in his ACRs and, therefore, that case will not assist him.

5. In the facts and circumstances of the case, therefore, we find no merit in this application, and the same is accordingly dismissed. No order as to costs.



(Shri S.P. Biswas)

Member(A)



(Smt. Lakshmi Swaminathan)

Member(J)

sk