

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

Dated: Allahabad, the 28th day of March, 2001.

Coram: Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiq Uddin, J.M.

ORIGINAL APPLICATION NO. 166 OF 1998

H.N. Bajpayee,
s/o late H.L. Bajpayee,
r/o 4/165, Subhash Nagar,
Shukla Ganj, Unnao,
presently posted at Senior S.D.E.,
E-10-B, Lajpat Nagar, Kanpur.

. Applicant

(By Advocate: Sri V.B. Tiwari
and Sri N.P. Singh)

Versus

1. Chief General Manager Telecom,
U.P. (E) Circle, Hazratganj, Lucknow.
2. Union of India through Secretary,
Department of Telecom Secretariate,
New Delhi.
3. R.C. Mishra, Sr. S.D.E. E-10 B Exchange
Telephone Bhawan Mall Road, Kanpur.
4. R.K. Gautam, Senior S.D.E. Estimate
Office of D.G.M. Planning Telephone Bhawan,
Mall Road, Kanpur.
5. R.G. Shukla, Senior S.D.E. Power Plant
Krishna Nagar Telephone Exchange, Kanpur.

. Respondents

(By Advocate: Sri R.C. Joshi)

O R D E R (ORAL)

(By Hon'ble Mr. S. Dayal, AM)

This Original Application has been filed
for direction to the respondents to promote the applicant
from 15.4.94 and to give all benefits of promotion
from that date.

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2. The case of the applicant is that he was promoted as officiating Assistant Engineer on 15.4.1982 in the pay-scale of Rs.650- 1200/-. He has, therefore, put in 12 years of regular service in the grade of T.E.S. Group B and he was entitled to be promoted as Senior Assistant Engineer. But, he was not given that promotion, although Respondent Nos.3 & 4 were promoted as Senior Assistant Engineer. The applicant made a representation on 19.9.1995, claiming his promotion from 15.4.1994. The applicant was promoted to the post of Senior Sub-Divisional Engineer with effect from 17th February, 1997. It is claimed that Sub-Divisional Engineers, whose names are contained in Sl.Nos.12 to 17 in promotion list dated 17.2.97 in Annexure No.3 were allowed to assume charge of Senior Sub Divisional Engineers, just after completion of 12 years of regular service as S.D.E. It is also claimed that Respondent Nos.3 & 4 were promoted as Sr. A.E. by including their officiating periods of A.E. The applicant submitted a number of representations for his promotion with effect from earlier date of 1994, which remained without any reply from the Respondents.

3. We have heard Sri V.B. Tiwari for the applicant and Sri Ganga Ram Gupta, brief holder of Sri R.C. Joshi for the Respondents.

4. The learned counsel for the applicant has referred to the Department of Telecom O.M. No.19-3/STG-II dated 18.1.94, in which the policy regarding

placement of TES Group 'B' officers in the grade of Rs.2200- 4000 as Senior Assistant Engineers on completion of 12 years service was laid down and it was provided that the meeting of Screening Committee for placement in the Senior A. Es. scale would be held in advance, so that officers completing 12 yrs. service in the next 12 months would be considered and those found fit by the Screening Committee would be placed in the scale of Senior AEs and take over the post of Sr.A.E. The claim of the learned counsel for the applicant is that despite completion of 12 years on part of the applicant, the applicant was not promoted in line with the policy of Department of Telecom spelt out in the letter dated 18.1.1994.

5. The respondents have denied that the applicant completed 12 years service on 19.4.1994 and became eligible for promotion in the grade of Sr.A.E. from 19.4.1994. He has mentioned that the applicant on the basis of commencement of regular service of TES Group 'B' became eligible for promotion to the grade of Sr.S.D.E. with effect from 19.9.1994¹. It has been stated that Sri R.C. Misra and Sri R.K. Gautam were mentioned by the applicant as having been promoted on the basis of their officiating service and the same has been taken note by the respondents and they had instructed the controlling officers to verify from their Service Books that they have actually completed 12 years of ^{regular} service before grant of promotion. He stated that the representation of the applicant dated 19.9.1995 was not received in the office and the first intimation

regarding the applicant being due for promotion was received in the office on 2.9.96 and after calling official records, dossiers etc. from G.M.T., Kanpur, he was granted promoted.

6. The issues involved in this case are two-fold, the first issue is as to whether the applicant on the basis of officiating service can be granted promotion and whether computation of 12 years should include officiating service or not has to be decided first. The applicant seems to infer from promotion of Respondent Nos.3 & 4 that the officiating service has to be computed for calculating 12 years service. The Respondents have denied that officiating service would count for this purpose. 12 years service can only mean regular service and not any service, which may be fortituous in nature. If officiating service belongs to that category, the same cannot be computed for completion of 12 years. The learned counsel for the applicant states that he should in that case have been granted promotion with effect from the completion of 12 years of regular service on 19.9.1995. This is a valid claim and has to be considered.

7. The second issue, which arises as to whether on the basis of promotion given to Sri R.C.Misra and Sri R.K. Gautam by counting their officiating promotion should also be made applicable to the applicant. The respondents have claimed that cases of Respondent Nos.3 & 4 were being re-examined to find out whether they had completed 12 years of regular service in TES

Group 'B'. The applicant has filed a supplementary affidavit, in which he has enclosed a list of officers in which names of Respondent Nos. 3 & 4 are contained as well as the name of the applicant. It appears from the list that Sri R.K. Misra and Sri R.K. Gautam Respondent Nos. 3 & 4 were senior to the applicant. However, this list does not disclose the date of regular promotion of Respondent Nos. 3 & 4 as well as applicant.

8. In the circumstances, we consider it appropriate in the interest of justice to direct the Respondents to find out whether any person junior to the applicant was promoted on or after 19.9.1995 and if a person junior to the applicant had been promoted to the grade of Sr. S.D.E., the applicant ^{should} ~~was~~ also ^{be} considered for promotion with effect from that date. The order shall be complied within a period of three months from the date of receipt of a copy of this order by the Respondents.

There shall be no order as to costs.

<i>Rafiq Uddin</i>	<i>S. Dayal</i>
(RAFIQ UDDIN)	(S. DAYAL)
JUDICIAL MEMBER	MEMBER (A)

Nath/