

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 14th day of Dec. 2001.

QUORUM : HON. MR. R.R.K. TRIVEDI, V.C.

HON. MR. K.K. SRIVASTAVA, J.M.

O.A. No. 349 of 2001.

1. Surya Kumar Trivedi s/o Sri Bhagwati Prasad Trivedi r/o
417, C.P. Mission Compound, Shiv Nursing Home, Jhansi.

..... Applicant.

Counsel for applicant : Sri A.D. Prakash.

Versus

1. Union of India through Secretary, Department of Telecom,
Sanchar Bhavan, New Delhi.
2. Chief General Manager, Telecom (E) UP Circle, Lucknow.
3. Divisional Engineer (Admn) office of Telecom, District
Manager, Jhansi.
4. General Manager, Telecom District Jhansi.

..... Respondents.

Counsel for respondents : Sri A. Sthalekar.

O R D E R (ORAL)

BY HON. MR. R.R.K. TRIVEDI, V.C.

By this O.A. u/s 19 of A.T. Act 1985, the applicant has prayed for a direction to the respondent to consider the representation of the applicant in accordance with the department circular No.15-7/98-TE-2 dated 23.8.99 and grant him promotion to grade IV. It has been further prayed that the applicant fulfills the requisite conditions and is eligible for promotion hence the promotion should be given to the applicant from the date on which his juniors were granted promotion.

2. The counter affidavit has been filed and in para 11 it has been stated that the applicant has been considered for promotion and orders of his promotion are being issued w.e.f. 9.8.01. So far as the dispute about promotion is concerned, it has come to an end ^{as u} along with the rejoinder, ^u The applicant



has filed the order dated 9.8.2000 by which applicant has been granted promotion to Grade IV. Counsel for the applicant has, however, submitted^u that the applicant was senior to Sri V.K. Jain and Sri R.S. Sharma but both have been granted promotion earlier to the applicant. Sri V.K. Jain has been granted promotion w.e.f. 25.3.98 whereas Sri R.S. Sharma has been granted promotion w.e.f. 7.7.2000. Counsel for applicant also submitted that at the time juniors to the applicant were being promoted, he made a request to the respondents that he should also be considered for promotion. The respondents, however, stated that his case has been referred to higher authorities for clarification and he shall be considered subsequently. The averments to ~~this~~^u ~~facts~~^u have also been made in para 9 of the counter affidavit. It has also been said in the C.A. that the applicant was promoted as R.S.A. in the year 1992 hence he ~~cannot~~^{u could} be considered along with Sri V.K. Jain and Sri R.S. Sharma as the applicant was ~~at~~^{u in} a higher post. Sri A. Sthalekar has said that the applicant has not suffered any loss^u.

3. We have considered the submissions of counsel^u for the parties carefully. However, we are not convinced by the stand taken by the respondents. It is not disputed that the applicant was senior to Sri V.K. Jain and Sri R.S. Sharma and was promoted as R.S.A. for which the feeder cadre is telephone operator. As the applicant was promoted earlier, it ~~cannot~~^{u could} have been used as a disadvantage to him while granting promotion under BCR scheme. By granting promotion to juniors earlier under BCR scheme, they have been given advantage and are now senior to the applicant in grade IV. The applicant could not be granted promotion along with Sri V.K. Jain and Sri R.S. Sharma as the department was in doubt and required some clarifications. After receipt of the clarification, it has not been said that applicant was not entitled for promotion at that time. But the promotion

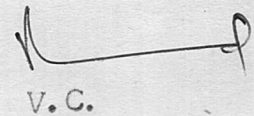
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has been granted w.e.f. the subsequent date. In our opinion, this has resulted in ^{anomaly} and the applicant ^{has been} ~~put~~ ^{is entitled for} to disadvantage. In our opinion the applicant ~~is~~ ^{is} ~~entitled~~ ^{entitled} for relief to this extent.

4. For the reasons stated above, this O.A. is disposed of finally with the directions to the respondent No.2 Chief General Manager, Telecom UP Circle, Lucknow to grant pro-forma seniority to the applicant w.e.f. the date his immediate juniors were promoted in grade IV, though he will not be entitled for arrears, but his pay from the date he was promoted shall be corrected accordingly.

There shall be no order as to costs.


J.M.


V.C.

Asthana/