

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 20TH DAY OF NOVEMBER, 2001

Original Application No.1106 of 2001

CORAM:

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

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

Hridaya Narain Maurya, son of
Late Shri Bechon Lal Maurya
posted as S.D.E.(Admn), in the
Office of General Manager Telecom
District Allahabad.

... Applicant

(By Adv: Shri Sudhir Agrawal)

Versus

1. Union of India through the Secretary
Ministry of Communication, Deptt.
of Telecom Sanchar Bhawan,
20, Ashoka Road, new Delhi.
2. Bharat Sanchar Nigam Limited
Sanchar Bhawan, New Delhi
through its Chairman/Managing
Director.
3. The Chief Manager, Telecom
U.P. East Telecom Circle,
Hazraganj, Lucknow.
- 4.

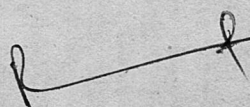
... Respondents

(By Adv: Shri Ganga Ram Gupta)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA u/s 19 of A.T.Act 1985 applicant has prayed
for a direction to the respondent no.3 to post the applicant
in Senior Time Scale of T.T.S Group'A' service in pursuance
of the promotion order dated 10.5.2001 passed by respondent
no.1 with all consequential benefits.



..p2

The facts of the case giving rise to this application are that the applicant was serving as TTS Group 'B' under the Government of India, Ministry of Communication and was posted as Assistant General Manager Telegraph traffic Service at Allahabad. By order dated 10.5.2001(Annexure Al), Applicant alongwith several other persons were promoted to Senior Time Scale of TTS Group 'A' in the pay scale of Rs.10,000-325-15,200 on adhoc basis. The applicant's posting was also done in U.P.Circle(East). As the Department of Telecom converted into a Corporation(Bharat Sanchar Nigam Ltd) an order of posting on promotion was issued on 17.5.2001 posting the applicant in U.P.Circle(E). However, the applicant was not actually posted and promoted in pursuance of the aforesaid order. The reason stated was that applicant was served with a memo of charge dated 7.6.2001 which was served on the applicant on 20.6.2001. Learned counsel for the applicant has submitted that as disciplinary proceedings were pending against the applicant on the date DPC considered the case of the applicant for promotion, the applicant could not be legally deprived of the chance of promotion on account of the memo of charge served on him subsequently.

The learned counsel has placed reliance on the judgements of Hon'ble Supreme Court mentioned as below:

- 1) Union of India & Ors Vs. K.V.Jankiraman
A.I.R 1991,Supreme Court-2010
- 2) Union of India and Ors Vs.Dr.Sudha Salhan(Smt)
(1998) Vol-3 SCC-394
- 3) Bank of India and another Vs.Degala Surya
Narayanan, A.I.R 1999 S.C -2407

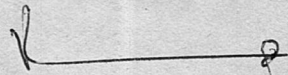
From the perusal of the aforesaid judgements of Hon'ble Supreme Court the legal position is well established that the crucial date is the date on which DPC considered the case of the applicant for promotion. If no disciplinary proceedings were pending against the applicant on that date,

chance of promotion could not be denied to him. In the present case on the basis of the recommendation of the DPC order of promotion was issued on 10.5.2001. Obviously the meeting of the DPC must have been held earlier to that. No disciplinary proceedings was pending against the applicant on that date. The subsequent service of memo of charge on 20.6.2001 could not be made basis for depriving him of the chance to serve as STS Group 'A'. The action of the respondents in not appointing the applicant as STS Group 'A' is thus illegal and arbitrary and cannot be sustained.

For the reasons stated above, this OA is allowed. The respondent no.3 Chief General Manager Telecom U.P.Circle(E) Lucknow is directed to post the applicant without any delay in Senior Time Scale of TTS Group 'A' service and pay him consequential benefits from the date immediate junior^v to the applicant was posted in the aforesaid scale. The benefit shall be paid to the applicant within three months from the date a copy of this order is filed. However, there will be no order as to costs.



MEMBER (A)



VICE CHAIRMAN

Dated: 20.11.2001

Uv/