

OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated this 23d day of September, 1996

Original Application no.748 of 1992

District : Varanasi

CORAM:-

Hon'ble Mr. S. Das Gupta, A.M.

Hon'ble Mr. T.L. Verma, J.M.

Jaganath Prasad Bhaduri

Son of Shri Sripati Bhaduri

Assistant Engineer, 'D Tax Office

of T.D.M.? Varanasi.

(By Sri R.K. Tiwari, Advocate)

. . . . . Applicant

Versus

1. Telecomn District Manager, Varanasi.
2. Chief General Manager, Telecom.,.  
U.P. Circle, Lucknow-1.
3. Chief General Manager, Telecom Project,  
351, Diamond Harbour Road, Calcutta-27.
4. General Manager Telecom Microwave Project,  
Patna.
5. Union of India through Secretary,  
Ministry of Communications, New Delhi-1.

(By Sri Amit Sthalekar, Advocate)

. . . . . Respondents

O R D E R (O\_r\_a\_l)\_

By Hon'ble Mr. S. Das Gupta, A.M.

This application was filed seeking a direction to the respondents to permit the applicant to cross the efficiency bar retrospectively and also to draw arrears of increment. He has also prayed that the adverse entries made in his confidential reports

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be expunged.

2. The facts averred in the OA disclose that the applicant was working as Assistant Engineer in in Remote Line Unit and was due to corss efficiency bar in the pay scale of Rs.2000-60-2300 EB-75-3500, on 1-5-1988. No order was, however, passed allowing the applicant to cross efficiency bar. The applicant was communicated certain adverse entries recorded in the confidential reports during the period 10-9-1987 to 23-3-1988. The applicant represented against the adverse entries but the representations were rejected.

3. The respondents have stated in the counter affidavit that as the applicant was given opportunity to represent against the adverse entries in the confidential reports and the same were rejected, the applicant cannot be granted relief prayed for. There is nothing in the counter affidavit to indicate why the applicant was not considered for crossing the efficiency bar on the due date. The only averment made is that the applicant was transferred from one unit to another and there was some correspondence regarding the matter relating to the applicants crossing of efficiency bar. There is also suppl. counter affidavit and rejoinder affidavit but these do not <sup>constitute</sup> ~~constitute~~ any material for the adjudication of the issue.

4. The statutory rule regarding crossing of efficiency bar is contained in FR 25, which is quoted as under :-

W6,

"F.R. 25. Where an efficiency bar is prescribed in a time-scale, the increment next above the bar shall not be given to a Government servant without the specific sanction of the authority empowered to withhold increments under Rule 24 or the relevant disciplinary rules applicable to the Government servant or of any other authority whom the President may, by general or special order, authorise in this behalf."

5. The Government of India orders quoted under this Rule lays down procedure for consideration of cases for crossing efficiency bar. These instructions clearly stipulate that the cases of the Government servants for crossing efficiency bar in the pay scale shall be considered by a committee which shall be the same as the Departmental Promotion Committee constituted for the purposes of considering the cases of confirmation of the Government servants concerned. The instructions also give time schedule for consideration of the cases of crossing efficiency bar. According to this schedule if the date of crossing the efficiency bar falls between April and July, the Departmental Promotion Committee should consider such cases in the month of April. The applicant admittedly was due to cross efficiency bar from 1-5-1988. Therefore, the Departmental Promotion Committee should have considered the case of the applicant in the month of April itself. There is <sup>/not a</sup> whisper in the counter affidavit that the Departmental Promotion Committee ~~met to consider~~ the case of the applicant and did not find him fit to cross the efficiency bar. Learned

W.P.

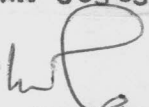
counsel for the respondents during the course of the arguments submitted that it was because of the adverse entries in the ACRs that the applicant was not allowed to cross the efficiency bar from the due date. This does not find any support from the submission made in the counter affidavit or supplementary counter affidavit.

6. We have noticed that the applicant was allowed to cross efficiency bar w.e.f. 1-5-1989 by the order dated 21-10-1993, a copy of which has been annexed to the counter affidavit. No reason has been indicated as to why the date of crossing the efficiency bar has been deferred <sup>by</sup> ~~to~~ one year resulting in loss of increment of one year to the applicant.

7. In view of the foregoing the application is allowed in part. The allegation relating to the adverse entries has not been considered since the learned counsel for the applicant himself submitted that he would not press for the same. We, however, direct the respondents to modify the order dated 21-10-1993 in so far as it relates to the applicant allowing the applicant to cross the efficiency bar w.e.f. 1-5-1988 instead of 1-5-1989. The applicant ~~shall~~ <sup>be</sup> also entitled <sup>to</sup> ~~for~~ all arrears of increments as a result of this <sup>change in the</sup> ~~change in the~~ date of crossing the efficiency bar. Let this be complied with within a period of one month from the date of communication of this order.

8. The parties shall bear their own costs.

  
Member (J)

  
Member (A)

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