

CENTRAL ADMINISTRATIVE TRIBUNALALLAHABAD BENCH

Allahabad this the \_\_\_\_\_ 1994.

Original Application no. 1354/94

Hon'ble Mr. K. Muthukumar, A.M.

Hon'ble Mr. J.S. Dhaliwal, J.M.

Dinesh Prasad Sharma

S/o Late Sh. Leela Dhar Sharma,

Working as J.T.O., Aligarh,

Kashyap Colony, Coolear Road, Aligarh.

.... Applicant.

Applicant in person.

Versus

1. Union of India

through Secy. Deptt. of Telecom,

New Delhi.

2. Chief G.M. Telecom, U.P. Circle,

Lucknow.

3. The Telecom District Engineer,

Aligarh.

.... Respondents.

## ( ORDER )

By Hon'ble Mr. K. Muthukumar, A.M.

1. The applicant is a junior Tele Communication (J.T.O) Officer in the Telecom Department, he is aggrieved that in that the respondents have arbitrarily and a malafide manner withheld the applicant's lateral advancement to the scale of pay of Rs 2000-3500/- in the basic cadre of J.T.O on a non functional basis under the lateral advancement scheme in the cadre of J.T.O announced

by the Government in June 1990.

2. The facts of the case are that the Disciplinary proceedings were initiated against the applicant on 3.1.1991 under Rule 16 of the CCS (CCA) Rules 1965. The Disciplinary Proceedings were concluded and he was awarded the penalty of withholding of next increment of pay for three years without cumulative effect by the order of the Disciplinary Authority dt. 17.5.1991. The applicant has challenged this order in this Tribunal in O.A. No. 1340/91. When the above O.A. was taken up this Tribunal, without giving any interim relief, observed:-

" In case the advance and promotion has been approved to the applicant prior to the punishment there appears to be no reason why the advance and promotion will not be given to him."

3. The applicant has alleged that the respondents and did not grant the did not comply with the above/ advance and promotion although he was approved for promotion prior to the imposition of the penalty. He moved a Contempt Application of no. 1324 of 1992 which was disposed/ by this Tribunal with the following observations:-

" In view of the fact that we have disposed of the application once finally, no useful purpose will be served in keeping the contempt matter alive but the respondents themselves will see that the order, passed by this Tribunal, is complied with notwithstanding the fact that the case has been disposed of. With these observations, the contempt application is consigned and the notices are discharged. "

4. The applicant again moved another contempt application no. 1531/93 which was again assigned by this Tribunal with the observations that " there has been no violation of this Tribunal 's order by not granting lateral advancement to the petitioner. "

5. The applicant has moved a present application, in view of the fact that his contempt petitions have failed and that he is still aggrieved that the lateral advancement benefit which was approved by the respondent no. 2 on 8.2.1991 prior to the punishment order dt. 17.5.1991 has not been given to him and, therefore, aggrieved by this ~~petition~~, he has prayed for direction by this Tribunal to the respondents to allow the lateral advancement to him with retrospective effect from 1.1.1990.

6. We have heard the applicant who appeared ~~have~~ in person and perused the record.

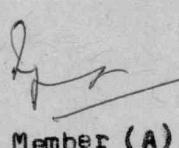
7. Although the scheme of lateral advancement was announced in June 1990, it was to have been implemented on the basis of the order issued by the respondent no. 2 in his order dt. 8.2.1991 and one of the conditions contained in the above order was that the Controlling Authorities was/ensure that there was no vigilance / disciplinary case pending or contemplated against the J.T.Os and that they / were not under-going any punishment, before implementing the order.

8. It is/from the facts mentioned above that disciplinary proceedings were initiated against the applicant by the order dt. 3.1.1991 by issue of chargesheet against him for disciplinary action under Rules 16 of CCS & CCA Rules 1965 and the

respondents have, therefore, rightly not implemented the lateral advancement scheme in so far as it related to the applicant. Therefore, we find that there/absolutely no basis in the contention of the applicant that the lateral advancement was not given to him <sup>is</sup> / arbitrary and prejudicial manner.

9. The application is totally misconceived and is, therefore, dismissed in limine. No order as to costs.

  
Member (J)

  
Member (A)

Allahabad: Dated: 17.11.94

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