

Open Court.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD.

...

Original Application No. 813 of 1995

this the 16th day of May '2002.

HON'BLE MR. S. DAYAL, MEMBER(A)

HON'BLE MR. RAFIQ UDDIN, MEMBER(J)

A.K. Verma, S/o Shanti Swaroop Verma, aged about 35 years, presently posted as Junior Telecommunication Officer at Puranpur District Pilibhit, R/o Telephone Exchange Campus, District Pilibhit.

Applicant.

By Advocate: Sri A.V. Srivastava.

Versus.

1. Union of India through Director General Telecommunication, Sanchar Bhawan, New Delhi.
2. Chief General Manager, U.P. Telecommunication Circle (West), Patel Nagar, District Dehradun.
3. General Manager, North Area, Bareilly. (Telecom.)
4. Telecommunication Add. Engineer, District Rampur.
5. Sub-Divisional Officer(T), District Pilibhit.

Respondents.

By Advocate : Sri P. Srivastava for Sri S. Chaturvedi.

O R D E R (ORAL)

BY HON'BLE MR. S. DAYAL, MEMBER(A)

This application has been filed for setting aside the suspension order of the applicant dated 9.8.1995. This relief has already been infructuous as the suspension order has been revoked. Another relief sought is for issuance of the directions to the respondents to treat the applicant to have been promoted to ETS Group 'B' cadre w.e.f. 3.6.94 with all consequential benefits.

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2. The applicant was appointed as Junior Engineer in June '82. The post of Junior Engineer was re-designated as Junior Telecom Officer. In the year 1988, a selection was initiated for further promotion to the post of TES Group 'B' and the applicant appeared in the qualifying examination. The applicant was, thereafter, approved by the DPC and his name was empanelled alongwith other successful candidates by the respondents in the panel dated 3.6.1994. The applicant was, thereafter, promoted on 15.7.94 and posting order was issued on 23.8.94 and on 9.9.94 the applicant joined as TES Group 'B' and was posted under C.G.M., National Centre for Electronic Switching, New Delhi. The applicant was, however, not relieved. The applicant was placed under suspension on 21.9.94 on the ground that the disciplinary proceedings were contemplated against him. The applicant, in the meantime, made various representations to join his promotional post. The applicant was served with the letter dated 30.9.94 (Annexure-5) by which he was informed that incase he wanted to be relieved, he should approach the higher authority. On 24.10.94 the suspension order of the applicant was revoked. He was served with a chargesheet dated 11.11.94 under Rule 16 of CCS (CCA) Rules 1965. The applicant submitted his defence statement on 6.12.94 and no action has been taken with regard to the said chargesheet till 5.7.96 when it was withdrawn without approach to further disciplinary proceedings being initiated. The applicant in the meantime approached the respondents for being relieved to join his promotional post. On one of his representation, the respondent no. 2 by order dated 13.7.95 directed the respondent no. 3 to immediately implement the promotion order of the applicant as TES Group 'B' cadre. The applicant was, thereafter, placed

under suspension on 9.8.95. The said order of suspension was followed by a major penalty chargesheet dated 8.7.96 and, thereafter, by order dated 22/23.7.96 the suspension of the applicant was revoked.

3. We have heard the arguments of Sri A.V. Srivastava for the applicant and Sri P. Srivastava for Sri S. Chaturvedi for the respondents.

4. The basic issue in this case is as to whether the promotion of the applicant could be ~~installed~~ on the basis of the apprehension ^{of} ~~of~~ a departmental enquiry against the applicant which came about subsequently. As a matter of fact, no chargesheet for major penalty was issued till 8.7.96. The law laid down in Jankiraman's case ^{(1991(2) SCALE SC 423)} is that sealed cover proceedings can be initiated when the charges are taken as established on *prima facie* basis. We do not find that any delinquency on the part of the applicant on *prima facie* basis has been established before he was empanelled and the order of promotion was issued on 9.9.94. ~~12.12.94~~. As a matter of fact as late as 13.7.95 the office of C.G.M.T.(West), Dehradun had directed the G.M., Telecom., Bareilly to implement the promotion order of the applicant. We, therefore, find that there was no justification in not allowing the applicant to be relieved and to join the new place on passage of the order dated 12.12.94. We, therefore, direct the respondents to treat the applicant as having been promoted from the date of promotion of his junior in the panel and to grant him all the consequential benefits from that date in accordance with the rules. The above directions shall be carried-out within a period of three months from the date of communication of this order. No order as to costs.

Rajendra
Rajendra
MEMBER (J)

Harold
Harold
MEMBER (A)