

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

SITTING AT NAINITAL

Dated: Nainital, the 15<sup>th</sup> day of June, 2001.

Coram: Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiq Uddin, J.M.

ORIGINAL APPLICATION NO. 988 OF 1995

B. S. Verma,  
s/o late Sri R. S. Verma,  
aged about 51 years,  
Presently posted as Dy. General Manager (Admn.),  
Office of the Chief General Manager Telecommunication  
Western U.P. Circle, Dehradun, resident of Type V/I,  
Sanchar Vihar, Indira Nagar,  
Dehradun.

..... Applicant  
(By Advocate: Sri A. V. Srivastava)

Versus

1. Union of India through Secretary,  
Department of Telecommunication,  
Sanchar Bhavan, 20 Ashoka Road,  
New Delhi- 110001.
2. The Director General,  
Department of Telecommunication,  
Sanchar Bhavan, 20 Ashoka Road,  
New Delhi- 110001.
3. Chief General Manager,  
Telecommunication,  
Western U.P. Telecom. Circle,  
Dehradun.

..... Respondents

(By Advocate: Sri D. S. Shukla )

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(RESERVED)

(By Hon'ble Mr. S. Dayal, AM)

This application has been filed for setting aside the D.P.C. proceedings dated 11th September, 1995, which was held to consider the case for promotion to both the Telegraph Traffic Service Wing Group 'A' and Telecom Engineering Wing Group 'A' separately with the direction to the Respondents to hold the DPC in terms of the merger order dated 23rd June, 1995 after circulating the combined gradation list as stipulated in the merger order. Further directions are sought to the Respondents to hold a fresh DPC in terms of the merger order dated 23rd June, 1995 after finalising and circulating the combined gradation list. Further direction is sought to the respondents not to hold any D.P.C. for further promotion to Indian Telecom Services Group 'A' till orders dated 23rd June, 1995 is fully implemented and a combined gradation list as stipulated in the merger order dated 23.6.95 is issued. A direction is also sought to the Respondents not to hold D.P.C. separately for Telegraph Traffic Service Wing and Telecom Engineering Service Wing of Group 'A' services for Junior Administrative Grade till full implementation of the merger order dated 23rd June, 1995.

2. The applicant has mentioned in the O.A. that he has been working as Deputy General Manager (Admn.) in the office of the Chief General Manager Telecommunication, Western U.P. Circle Dehradun on ad hoc basis in Junior Administrative Grade with effect from 30th September, 1991. He initially

joined Telegraph Traffic Service Class II, as a result of his empanelment in the combined Engineering Service Examination in 1973. It is mentioned that Telecommunication Engineering Service Class I, now known as Indian Telecom Service Class I, was separate cadre with separate channel of promotion. The applicant was promoted to TTS Class I on 17.2.82. The next promotional post for Telecom Engineering Service Class I and Telegraph Traffic Service Class I is of Junior Administrative Grade and the posts were filled separately for these two Services on the basis of separate seniority lists. In 1981, Sareen Committee recommended merger of Telecommunication Engineering Service Wing and Telegraph Traffic Service Wing. The recommendation is alleged to have been accepted but remained unimplemented till 1985. The Government of India issued an order dated 15.4.94, merging Group 'B' and Group 'C' cadres of Telegraph Traffic Wing of the Department of Telecom with the Telecom Engineering Wing. The Government of India issued an Office Memorandum dated 23.6.95 for merger of Telegraph Traffic Arm with the Engineering Arm in respect of Group 'A' services. In the merger scheme, it was provided that the orders would be applicable to only those officials, who have specifically opted for merger before 31st July, 1996. It was also provided that a provisional combined seniority list would be prepared, which was circulated on 31.8.95. It was also provided that Recruitment Rules would be taken up for finalisation and the

entire procedures would be completed by 30th September, 1995. It was also provided that till the amended rules for ITS Group 'A' were notified, the provisional gradation list prepared under Sl. No. 6 will be operated for making ad hoc promotion and no regular promotion would be made in both the streams. The applicant had opted for merger by his letter dated 3rd July, 1995. However, till the date of filing of O.A. on 25.9.95, neither amended Recruitment Rules for ITS Group 'A' have been finalised and notified nor a provisional gradation list of the officials, who opted for merger, has been prepared and circulated. The Respondents constituted a D.P.C. for TTS Group 'A' and ITS Group 'A' for Junior Administrative Grade in the 3rd week of September, 1995. It is claimed that prior to the issuance of the merger order dated 23rd June, 1995, a similar D.P.C. for holding selection to the Junior Administrative Grade in Telegraph Traffic Service was constituted. But before the meeting of the DPC could be held, Respondent Nos. 1 & 2 informed the Respondent No. 4 that as the merger was <sup>the</sup> <sub>in</sub> offing, list submitted for DPC may be treated as frozen and U.P.S.C. will be approached with a fresh combined gradation list. The Respondents further constituted a D.P.C. to meet on September 7, 1995, which was postponed subsequently and met on 11th September, 1995 to consider the cases separately for both Indian Telecom Service Class I and Telegraph Traffic Service Class I for further promotion to Junior Administrative Grade in violation and contravention of merger order dated 23rd June, 1995. The applicant also stated

that the selection had not been finalised and was kept pending for approval of the competent authority after meeting of the D.P.C. on September 11, 1995. The applicant claimed that if a combined seniority list had been prepared, he would have been senior to approximately 324 officers of Indian Telecom Service Group 'A' working in Senior Time-scale and would have been considered for promotion by the D.P.C. held on 11-9-95 for promotion to Junior Administrative Grade. The applicant claims that while 324 vacancies were being filled in Indian Telecom Service Group 'A', only six out of 11 vacancies have been filled up in Junior Administrative Grade in Telegraph Traffic Service Group 'A'. The applicant claims that he had become a Member of the Indian Telecommunication Service Group 'A' after final date of option i.e. 31st July, 1995 and it was incumbent on part of the Respondents to consider his name along with ITS officers in Group 'A', when the D.P.C. met on 11th September, 1995. The applicant claimed that the first officer considered by the D.P.C. was one Sri Datta Saran Mishra, who was promoted in the feeder grade on 29.11.83 and was junior to the applicant, who was promoted on 17.2.82. The applicant further claimed that if the D.P.C. had been held after preparing a combined seniority list, the applicant would have been on the top of the gradation list and would have also been considered for promotion to the Junior Administrative Grade 'A' in Indian Telecommunication Service Group 'A'.

The applicant states that selection for which DPC had met on 11th September, 1995 had not yet been finalised and the Respondents are required direction not to finalise the same.

3. The arguments of the applicant in the absence of his counsel Sri A.B. Srivastava were held. Sri D.S. Shukla, who appeared for the Respondents was also heard.

4. The Respondents in their counter reply have stated the appointing authority approved the merger of TTS Grade 'A' with ITS Grade 'A' by administrative instructions. The merger order also included the methodology to be adopted for affecting merger and this methodology included revision of Recruitment Rules. The administrative instructions could not supersede statutory provisions and merger could not be given effect <sup>to</sup> till statutory rules for recruitment were modified. The Respondents mentioned that they have already taken up the matter of revision of Recruitment Rules with the Department of Personnel etc. and the same were in the process of finalisation. Till the amended Recruitment Rules are notified, the merger cannot be said to have taken place. The Respondents have also mentioned that the matter of finalising the amendment to Recruitment Rules was held up on account of O.A. filed before the Principal Bench. The Respondents have stated that Paras 6 & 8 of order dated 23-6-95 were modified by Office Order dated 26.4.96 and Para-6 provides for preparation of provisional combined gradation list and circulation

by 31st August, 1995, which stood deleted/withdrawn and Para-8 stood modified to provide promotion in two streams on the basis of respective gradation list against vacancies in respective streams. The Respondents also claimed that they had filed a Review Petition with regard to the judgment in O.A. 283 of 1996 pronounced on 12.4.96.

5. We have perused the order of the Principal Bench in O.A. No.283 of 1996. It has been held that these groups of service have already been merged and the final order dated 23.6.95 was issued only with a view to spell out the modalities of promotion on ad hoc basis taking the length of service till the final recruitment rules were approved by DoPT and UPSC and till the Recruitment Rules were finalised and notified. It was held that leaving out Telegraph Traffic Service by not making a combined gradation list for promotion from Junior Administrative Grade to Senior Administrative Grade was discriminatory and, therefore, the entire promotion list was liable to be struck off down as violative of Article 14. However, taking into account the fact that since no D.P.C. had taken place and it was only an ad hoc promotion, the Respondents could be directed to interpolate the names of applicants who were senior at the appropriate places based on the dates of entry in the equivalent grades. It was also mentioned in the order that since it was an ad hoc promotion, there was no question of giving consequential <sup>benefits</sup> and the applicants will be promoted from the date of

issuance of promotion order after interpolating their names, as directed in the said order. The Review Petition filed for reviewing the order in O.A. No. 283 of 1996 stood rejected by order of Principal Bench dated 4.12.96.

6. The learned counsel for the Respondents has produced before us a letter dated August 24, 2000 regarding settlement of issue of merger of Telegraph Traffic Arm group 'A' and 'B' with Engineering Arm. It states that based upon an agreement reached between Department of Telecom Operations, Telegraph Traffic Officers Association and Indian Telecom Service Association, following orders conveying approval of competent authority are being issued:-

1. The department will provide promotions to the officers of TTS group 'A' from the grade they are holding on regular basis to the next higher grade when an officer in TTS group 'A' with equal length of regular service in same grade is promoted. To enable implementation of these promotions, a gradation list of TTS officers indicating their notional numbers vis-a-vis the ITS officers in the same grade is being prepared and being sent to Circles shortly.
2. Promotion of TTS group 'B' officers will be provided against vacancies of STS of TTS in their own stream. A statement showing details of sanctioned and vacant posts in STS of TTS as per available records is placed at Annexure -I Circles are requested to immediately confirm/furnish the latest status of sanctioned working strength in this respect so that DPC for promotion to STS of TTS may be conducted.

3. TTS officers will be deployed against Engineering Telegraph posts by Heads of Circles without discrimination. This arrangement is also applicable to TTS officers promoted till date.
4. Lateral advancement scheme is restored retrospectively for TTS group 'B' officers. Other facilities available to TES group 'B' officers like pay-scales, post upgradation, pay anomaly settlement and other promotional avenues are applicable to TTS group 'B' officers also.
5. With above agreement, TTS- ITS merger has been closed once for all. Merger order dated 23.6.95 has been withdrawn and para 14 of order No.5-1-94-TE-II dated 5.4.95 gets partially modified to incorporate the above mentioned arrangements.
6. All court cases filed in various courts related to TTS- ITS merger will be withdrawn."

Since the question of merger of TTS with ITS has been taken as closed and merger order dated 23-6-95 has been withdrawn, the relief sought by the applicant is no longer necessary. Although the applicant has contended that his juniors in TTS Group 'A' were promoted on regular basis, the orders dated July 8, 1996 and November 21, 1996 are ambivalent in nature, as they provided for promotion on ad hoc as well as regular basis. However, in the light of the said agreement dated August 24, 2000, a copy of which was produced by the learned counsel for Respondents at the time of hearing and has been quoted extensively as above, the applicant would be able to get relief,

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as per ~~relief order~~ clause 8  
No.1 of the circular letter  
dated August 24, 2000.

7. The application stands disposed of with  
the above observations.

There shall be no order as to costs.

Rafiq Uddin ( S. Dayal )  
( RAFIQ UDDIN ) MEMBER ( A )  
JUDICIAL MEMBER

Nath/