

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 22nd day of August, 2000

Original Application No.669 of 2000

District : Gorakhpur

CORAM :-

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

Hon'ble Mr. S. Biswas, A.M.

1. Hira Lal Son of Sri Ruplal,
S.D.E. (Phones), under Telecommunication
District Manager, Basti.
2. Ambika Prasad Yadav Son of Late Ram Kawai Yadav,
S.D.E. (Phones), Mahrajganj, under General
Manager Telecommunication, District Gorakhpur.
3. Mohd. Habib Son of Late Rozan, S.D.E. (Planning)
Under General Manager Telecommunication,
District-Gorakhpur.

(Sri B.D. Mandhyan/Sri S.C. Mandhyan, Advocates)

• , . . . Applicants

Versus

1. The Union of India, Ministry of Communication,
Government of India, Sanchar Bhawan, New Delhi,
through its Secretary.
2. The Chief General Manager, Telecommunication
Uttar Pradesh (East Circle), Lucknow.
3. The General Manager Telecommunication, District
Gorakhpur.
4. The Telecommunication District Manager, Basti.
(Sri G.R. Gupta, Advocate)

• , . . . Respondents



O R D E R (O_r_a_l)

By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

By this application under Section 19 of the Administrative Tribunals Act, 1985, the applicants have questioned the legality of the orders dated 29-5-2000 and 1-6-2000 by which the applicants have been reverted from the post of Telecommunication Engineering Service Group 'B' to the post of Junior Telecommunication Officer (J.T.O.).

2. The case of the applicants is that the applicant no 1, Hira Lal was appointed in the year, 1974 as Junior Telecommunication Officer. The applicant no.2, Ambika Prasad Yadav though joined as Repeater Station Asst. on 12-3-1972, he was promoted as J.T.O. in November, 1979 and subsequently he was confirmed on this post. ^{He was appointed as Telephone Inspector, he was} The applicant no.3, Mohd. Habib was initially promoted on the post of J.T.O. in July, 1991, and he was confirmed on this post. Further, the case of the applicants is that applicant no.2 was promoted on officiating basis as T.E.S. Group 'B' on 8-4-1996. Applicant nos.1 and 3 were promoted on officiating basis as T.E.S. Group 'B' in July, 1998. All the three applicants were serving on officiating/ad hoc basis as Telecommunication Engineering Service, Group 'B', Respondent no.1 by order dated 26-4-2000 after screening granted promotion to 1538 persons as T.E.S. Group 'B'. This order, however, provided that promotion shall ^{not} be granted if any vigilance/ disciplinary case is ^{not} pending or any punishment is current against any of the officials mentioned in the list. The case of the applicants is that the



order of promotion dated 26-4-2000 becomes effective so far as the applicants are concerned on the date of issue as they were already holding office of Telecommunication Engineering Service, Group 'B', for the last more than one year, and they could not be reverted on the alleged ground that some vigilance enquiry was pending against them. In alternative, learned counsel for the applicants has submitted that under the departmental instructions issued on 24-12-86 as the applicants were serving on ad hoc basis for more than a year, they could not be reverted to the post held by them only on the ground that disciplinary proceedings were initiated against them.

3. Sri G.R. Gupta, learned counsel appearing for the respondents on the other hand submitted that promotion granted by the order dated 26-4-2000 was conditional that no vigilance or disciplinary proceedings were pending against promotees and he was not under any current order of punishment. Learned counsel has submitted that the order of reversion has been rightly passed against the applicants.

4. We have carefully considered the submissions of the learned counsel for the parties. However, in our opinion, the impugned order of reversion cannot be sustained for ~~more~~ than one reason. First reason is that the applicant no.2 was serving on the post on ad hoc basis for the last about four years and applicant no.1 and 3 were serving for about two years. The departmental instructions in this respect are very clear as given in G.O.I, Deptt. of Personnel and Training O.M. 11012/9/86 ESTT(A) dated 24-12-1986.



Clause 2 of this O.M. provides as under :-

"Where appointment was required to be made on ad hoc basis purely for administrative reasons (other than against a short term vacancy or leave vacancy) and the Government servant has held the appointment for more than one year, if ~~any~~ disciplinary proceeding is initiated against the Government servant, he should not be reverted from the post held by him only on the ground that disciplinary proceeding has been initiated against him".

5. In our opinion the order of reversion was contrary to the Government instructions and for this reason it cannot be sustained. The second ground on which the order of reversion cannot be maintained is that promotion granted by order dated 26-4-2000 only prohibited the promotion to those who were serving on the lower post of JTOs but the order appears to be silent in respect of the persons who were already serving on the promotion post on ad hoc/officiating basis. After the order dated 26-4-2000, the applicants ought to have been treated as regular appointees on promotion post and there could not be any justification for reverting them on the ground that some disciplinary enquiry was pending against them. There cannot be any dispute that the order of reversion is a major penalty and it can be inflicted only after a full-fledged disciplinary enquiry ^{and} on completion of the same.



6. For the reasons stated above, this application is allowed. The orders dated 29-5-2000 (Annexure-A-1) and 01-6-2000 (Annexure-A-2) are quashed.

7. There shall be no order as to costs.

S. Dube *R*
Member (A) Vice Chairman

Dube/