

Adverse  
Remarks

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH

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O.A. No. 348 OF 1989.

~~Tax No.~~

DATE OF DECISION : 20.7.1992.

D.H. Saraspara, Petitioner

Mr. P.V. Hathi, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent<sub>s</sub>

Mr. Akil Kureshi, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.V. Krishnan, Vice Chairman.

The Hon'ble Mr. R.C. Bhatt, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✓
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✓
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✓

(6)

D.H. Saraspara,  
Private Assistant (Engineering),  
Ahmedabad Telecom District,  
Ramnivas Building,  
Khanpur, Ahmedabad.

..... Applicant.

(Advocate: Mr. P.V. Hathi)

Versus.

1. Union of India  
(Notice to be served on  
the Secretary, Ministry of  
Communications,  
'Sanchar Bhavan',  
New Delhi).
2. Director General  
Telecommunications,  
'Sanchar Bhavan'  
New Delhi.
3. Chief General Manager,  
Telecommunications,  
Gujarat Circle,  
Ahmedabad - 9.
4. Director,  
Telecommunications,  
Opp: Jubilee Garden,  
Rajkot.

..... Respondents.

(Advocate: Mr. Akil Kureshi)

ORAL ORDER

O.A.No. 348 OF 1989

Date: 20.7.1992.

Per: Hon'ble Mr. N.V. Krishnan, Vice Chairman.

The applicant was due to cross the efficiency bar on 1.2.1982. He was not allowed to do so because there were some adverse remarks for the period 1979-80 which were communicated to him (Ann. A-1). An appeal against those remarks was made but was rejected (Ann.A4) this order was quashed and

2. In O.A. 452/86 filed by him, we directed the appellate authority to reconsider the matter. In pursuance thereof, <sup>U panel</sup> a fresh order has been rejecting the appeal against the adverse remarks (Ann. A/5). The applicant has impugned this order.

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3. In the meanwhile, the applicant was permitted to cross the efficiency bar from 1.2.1985 only by the order dated 10.7.1985 (Ann. A/3.)

4. The applicant has therefore prayed as follows :

"(A) quashing and setting aside the order dated 31.3.1981 Annexure A/1 hereto, and directing the respondent-authorities to expunge the adverse remarks contained in the order, Annexure A/1 hereto;

(B) quashing and setting aside the order dated 11.6.1986, Annexure A/4 hereto, passed by the respondent No.2.

(C) quashing and setting aside the order dated 21.10.1982 Annexure A/2 hereto, passed by the respondent No.3 informing the applicant that the departmental promotion committee had not found him fit to cross the efficiency bar with effect from 1.2.1982;

(D) quashing and setting aside the order dated 10.7.1985, Annexure A/3, passed by respondent No.3, allowing the applicant to cross the efficiency bar only with effect from 1.2.1982 instead of 1st February, 1985.

(E) quashing and setting aside the order dated 19th August, 1988, Annexure A/5 hereto, passed by the respondent No.3, rejecting the appeal of the applicant against adverse remarks.

(F) quashing and setting aside the order dated 31st August, 1988, Annexure A/6 hereto, passed by the Assistant General Manager communicating the decision of the second respondent and the consequential decision not to convene the Departmental Promotion Committee.

(G) directing the respondent-authorities to treat the applicant as having crossed the Efficiency Bar with effect from 1st February 1982/1st February, 1983 in his pay scale then

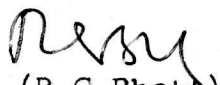
existing and to extend to him all consequential benefits like increments, arrears of salary, seniority, promotion etc."


5. When the matter came up for final hearing today, the learned counsel for the applicant submitted that he was restricting his prayer to the consideration by the respondents of his claim for crossing the efficiency bar from either 1.2.1983 or from 1.2.1984<sup>u and</sup> grant<sup>ing</sup> him consequential benefits (i.e. subpara F & G of para 7 of the application extracted above) because, in accordance with the rules, if an official is held up at the efficiency bar stage, the Department is required to consider his case at every subsequent year. In view of this prayer, we proceed to pass this order.

6. The learned counsel for the respondents has produced for our perusal the proceedings of the DPC, on the basis of which the applicant was allowed to cross the efficiency bar with effect from 1.2.1985. These proceedings do not make it clear that the DPC<sup>u</sup> ~~also~~ specifically addressed itself to the question whether the applicant was fit to cross the efficiency bar from the first or the second anniversary of the due date i.e., from 1.2.1983 or 1.2.1984. We are of the view that, in accordance with the standing instruction of the Department, the respondent were obliged to consider the applicant's case for crossing the efficiency bar from these two earlier dates<sup>u</sup> also.

(9)

7. In the circumstances, while allowing the application in part, we direct that, notwithstanding the Annexure A-3 order dated 10.7.85 permitting the applicant to cross the efficiency bar from 1.2.85 only, the respondents shall constitute a review DPC which shall consider specifically whether the applicant was fit to cross efficiency bar either from 1.2.83 or from 1.2.84, and, in case the review DPC finds this issue in favour of the applicant, the third respondent is directed to modify the earlier order dated 10.7.85 and specify the revised date from which the applicant is allowed to cross the efficiency bar, within a period of three months from the date of the receipt of this order, and, grant him all consequential financial benefits within a further period of one month. Application is disposed of above. No orders as to costs.

  
(R.C. Bhatt)  
Member (J)

  
20-7-92  
(N.V. Krishnan)  
Vice Chairman

vtc.