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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

DATE OF ORDER: .27.02.1997.

O.A.NO. 108/1996.

POONAM CHAND S/O SHRI DHOO CHAND, BY CASTE
MALI, TELEGRAPH ASSISTANT 'A', C/O TELEGRAPH
OFFICE, SUMERPUR.

.....APPLICANT

VERSUS

1. UNION OF INDIA THROUGH SECRETARY, MINISTRY OF
TELECOMMUNICATION, GOVERNMENT OF INDIA, NEW DELHI.

2. DIRECTOR, TELECOM (SOUTH), UDAIPUR.

3. CHIEF GENERAL MANAGER, TELECOM, RAJASTHAN
CIRCLE, JAIPUR.

4. SENIOR SUPERINTENDENT, TELEGRAPH TRAFFIC, AJMER
DIVISION, AJMER.

.....RESPONDENTS

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CORAM

THE HON'BLE MR. A.K. MISRA, MEMBER (JUDICIAL)

PRESENT:

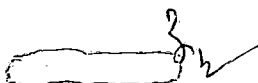
Mr. N.S. Solanki, counsel for the applicant.
Mr. K.S. Nahar, counsel for the respondents.

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BY THE COURT

The applicant Poonam Chand posted as Telegraph Assistant 'A', Telegraph Office, ~~Udaipur~~, Sumerpur, has filed this O.A. with the prayer that the Order of Senior Superintendent, Telegraph Traffic, Ajmer Division, Ajmer, dated 27.7.1991 be quashed and the applicant be allowed to cross Efficiency Bar on 1.6.1991 as was due.

2. It is alleged by the applicant that he was drawing Rs. 1,150/- per month in the scale of Rs. 975-25-1150-EB-30-1660 and was due to cross Efficiency Bar w.e.f. 1.6.1991 at the stage of Rs. 1,150/- per



month. The respondent No. 4 passed an order dated 27.7.1991 and held that applicant was not fit for crossing the Efficiency Bar from the due date because of un-satisfactory record. The applicant preferred an appeal against the said order which was rejected by the competent authority. Review in respect of appeal was also rejected. It is further alleged by the applicant that he was not allowed to cross Efficiency Bar because of unsatisfactory record and overall performance but for the period from 1987-88 to 1991-92, no adverse ACR was ever communicated to the applicant, therefore, the order of not allowing the applicant to the efficiency bar cannot be sustained.

3. Notice of this O.A. was given to the respondents. They have filed reply alleging that in the year 1987 the applicant was censured for sleeping on the table of Telegraph Master and again in 1989 he was censured for short crediting of Rs. 93/-, which was detected at the time of inspection. The applicant was communicated the orders of censure and the same were incorporated in his ACRs of the relevant years also. Because of unsatisfactory record, the applicant was not allowed to cross Efficiency Bar. The applicant was also informed about the adverse entries in ACR. The order dis-allowing him to cross the Efficiency Bar is perfectly in order. The Appellate Authority had also considered the factual aspect of the matter and has correctly dis-allowed the appeal.

4. I have heard the learned counsels for both the parties and have gone through the record.

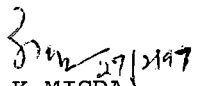
5. From the argument of the learned advocate for the respondents and the averments of the respondents, it appears that the applicant was not allowed to cross Efficiency Bar for unsatisfactory service record and also for having been censured twice during the relevant period of 5 years. But in 1990(2) ATJ 119, Iqbal Singh Versus Union of India and Others, it was held that where an official is censured the crossing of Efficiency Bar from the due date cannot be with-held for that reason alone. A similar view was expressed in 1993(2) ATJ 276. Therefore, the applicant cannot be refused or dis-allowed to cross the Efficiency Bar simply because he was earned two censures ^{during} to the relevant period. At that time when the applicant was due to

cross the Efficiency Bar, he was not under-going any punishment like stoppage of grade increments etc., therefore, the crossing of Efficiency Bar could not have been with-held by the concerned authority.

6. The respondents have not brought on record, the adverse ACRs in respect of performance of the applicant during the relevant period. Annex. R-3 which is a communication to the applicant in respect of confidential report for the year 1988-89 mentions the facts of censure only. Annex. R-4 which is a communication in respect of confidential report for the year 1987-88 mentions "devotion to duty poor, censured for dereliction". There is no indication of any other adverse entry in relevant ACRs in these two communications. The respondents have also not brought on record any other adverse entry against the applicant. Had there been some adverse entry, respondents would have certainly brought the same on record for purposes of showing to the Tribunal that the service record of the applicant was not satisfactory. But there is no such material available on record.

7. As described above, crossing of Efficiency Bar, cannot be dis-allowed simply because an official has earned censure during the relevant period. Therefore, in the instant case, denial of crossing of Efficiency Bar by the applicant is not justified and is in fact against the settled legal position. Therefore, the order Annex.A-1 dated 27.7.1991 stopping the applicant from crossing the Efficiency Bar, deserves to be quashed and so also, the order of the Appellate Authority Annex.A-2 dated 7.7.1992. The O.A. deserves to be accepted.

8. Consequently, I accept the Original Application of the Applicant and quash the impugned order Annexes. A-1 and A-2, passed by the Senior Superintendent, Telegraph Traffic, Ajmer Division, Ajmer and Director, Telecom (South), Udaipur, respectively. The respondents are directed to allow the applicant to cross the Efficiency Bar w.e.f. 1.6.1991 with all consequential benefits like fixation of pay, payment of arrears etc. within a period of four months from the date of communication of this order. The parties are left to bear their own costs.


(A.K. MISRA)
Judicial Member

MEHTA