

CENTRAL ADMINISTRATIVE TRIBUNAL,  
JODHPUR BENCH, JODHPUR

ORIGINAL APPLICATION NO.: 169/2002

DATE OF ORDER: 28.05.2003

Moola Ram Khurkhuria son of Shri Moti Ram, aged 52 years,  
resident of Rampura Basti, Street No. 2, Lalgah, Bikaner.

...APPLICANT.

V E R S U S

1. Union of India through Secretary,  
Ministry Tele-communication, Government  
of India, Sanchar Bhawan, New Delhi.
2. Bharat Sanchar Limited through Chief  
General Manager, Telecommunication,  
Rajasthan Circle, Sardar Patel Marg,  
'C' Scheme, Jaipur.
3. Member, Finance, Ministry of Tele  
Communication, Communication Department,  
Sanchar Bhawan, New Delhi.
4. General Manager, Tele communication  
Department, Bharat Sanchar Nigam,  
Sri Ganganagar.

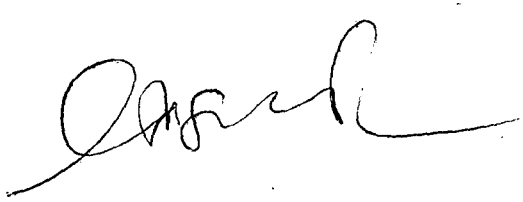
...RESPONDENTS.

Mr. K.V. Wyas, counsel for the applicant.  
Mr. Kuldeep Mathur, counsel for the respondents.

CORAM:

HON'BLE MR. JUSTICE G.L. GUPTA, VICE CHAIRMAN.

HON'BLE MR. G.C. SRIVASTAVA, ADM. MEMBER.

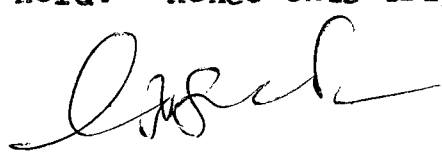


: O R D E R :

( Per Mr. Justice G.L. Gupta, Vice Chairman )

Through this Original Application, the applicant calls in question the order dated 02.11.2001 (Annexure A/4) whereby the representation of the applicant was rejected.

2. The applicant was initially appointed on the post of T.S. Clerk on 19.04.1971. He earned promotions and became Supervisor. He appeared in the examination for the post of Junior Accounts Officer in the year 1991. He cleared said examination on 24.03.1993. One Shri Gautam Prasad Sinha, who was junior to the applicant also appeared in the said examination. Both the, applicant and Shri Gautam Prasad Sinha were declared successful. The Department sent Gautam Prasad Sinha for training. But did not send the applicant. He made a representation in the year 1994. His representation was accepted vide order dated 07.04.1994 (Annexure A/1) and his name was placed in the merit list above Shri Gautam Prasad Sinha. Thereafter, the applicant was also sent for training along with the the next batch. By the time, the applicant completed the training and the probation period, Gautam Prasad Sinha earned further promotion. He was promoted to the post of Asstt. Accounts Officer from 01.07.1997. The applicant made representation against the said promotion stating that he had a prior right of promotion being to senior to Shri Gautam Prasad Sinha. His representation was rejected vide order dated 02.11.2001 (Annexure A/4) on the ground that he had not completed the probation period by the time the DFC dated 01.10.1996 was held. Hence this Original Application.





3. In the counter, the respondents have admitted almost all the facts. It is not in dispute that Shri Gautam Prasad who was junior to the applicant has got further promotion and the applicant has been denied promotion on the ground that he had not completed the probation period when the DEC was held on 01.10.1996.

4. We have heard the learned counsel for the parties and perused the documents placed on record. It is evident that the applicant was not sent for training along with Gautam Prasad because of the mistake on the part of the respondents. The mistake was rectified vide order dated 07.04.1994 (Annexure A/1) but he could be sent for ~~xxxxxx~~ training along with the next batch. It was, therefore, natural that Gautam Prasad completed the training and the probation period before the applicant could complete the training and the probation period. When the applicant could not complete the probation period before the DEC meeting held on 01.10.1996. It was not for any fault on his part. It was because of the mistake committed by the respondents when he was not sent for training along with Gautam Prasad. The applicant who was senior to Gautam Prasad had a prior right of consideration for promotion. The respondents have erred in rejecting the representation of the applicant.

5. Consequently, the Original Application is allowed. The order dated 02.11.2001 (Annexure A/4) is hereby quashed. The respondents are directed to consider the case of the applicant for promotion from the date Gautam Prasad was given promotion to the post of Assistant Accounts Officer with consequential benefits. The exercise be completed within two months from the date of communication of this order.

6. The applicant shall get a cost of Rs. 1000/- from the respondents.

  
( G.C. SRIVASTAVA )  
Adm. Member

  
( G.L. GUPTA )  
Vice Chairman

50720700  
18  
By [Signature]  
[Signature]

2018  
[Signature]  
W/S [Signature]  
[Signature]

Part II and III destroyed  
In my presence on 13.1.09  
under the supervision of  
section officer [Signature] as per  
order dated 07.2.08

[Signature]  
Section officer (Records)