

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.215/2009

Date of decision: 18-5-2011

**Hon'ble Mr. Justice Syed Md Mahfooz Alam, Judicial Member.
Hon'ble Mr. Sudhir Kumar Administrative Member.**

K.L. Parihar S/o Shri Laxman Parihar, age 54 years, R/o 9/5 Madhuban, Chittore Garh, Rajasthan, at present employed on the post of S.D.E. (HRD) in the office of General Manager, Tele Communication Department, Sirohi.

: Applicant.

Rep. By Mr. B. Khan: Counsel for the applicant.

Versus

1. Bharat Sanchar Nigam Ltd. through Chairman and Managing Director, Corporate Office, Bharat Sanchar Bhawan, Harish Chandna Mathur Lane Janpath, New Delhi.
2. The Chief General Manager Telecom, BSNL, Rajasthan Circle, Sardar Patel Marg, Jaipur.
3. The Divisional Engineer (Adm.), BSNL, TDM, Chittor Garh.
4. The Assistant General Manager (Personnel), CGMT, BSNL, Jaipur.

: Respondents.

Rep. By Mr. M. S. Godara Proxy counsel for
Mr. Vinit Mathur : Counsel for the respondents.

ORDER

Per Justice S.M.M. Alam, Judicial Member.

Applicant K.L. Parihar, who is presently posted as S.D.E. (HRD) in the office of General Manager, Tele Communication Department, Sirohi, has preferred this O.A. being aggrieved by the order dated 03.09.2007 (Annexure-A/1) passed by Assistant General Manager (Pers), office of the Chief General Manager Telecom, Rajasthan Telecom Circle, Jaipur (CGMT, BSNL, Jaipur) and has sought following relief:-

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- "(i) That the order dated 03.09.2007 (Annexure-A/1) and order dated 01.10.2007 (Annexure-A/2) may kindly be modified to the extent of granting the actual benefit to the applicant and the respondents may kindly be directed to grant the actual benefit with all consequential benefits along with the interest @ 12% p.a. It is further prayed that the respondents may kindly be directed to give actual benefit to the applicant as per the direction of this Hon'ble Tribunal as has been issued in the original application No.20/2002 as well as in the R.A. No.11/2004.
- (ii) That any other direction, or orders may be passed in favour of the applicant, which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.
- (iii) That the cost of this application may also be awarded to the applicant."

2. The main grievance of the applicant is that earlier he had preferred an original application bearing O.A. No.20/2002, which was disposed of by order dated 26.10.2004 (Annexure-A/3) with direction to the respondents to conduct a review DPC and consider the case of the applicant to be promoted to the TES Group 'B' service and promote him to the said post on being found fit and eligible, with further direction to grant him all consequential benefits from the date on which his juniors were promoted, which order of the Tribunal was reiterated in the order dated 10.05.2007 passed in review application No.11/2004 (Annexure-A/4). The grievance of the applicant is that although by virtue of the impugned order dated 03.09.2007 (Annexure-A/1), the respondents have promoted the applicant from JTO to the grade of SDE (T) equivalent to TES Group 'B' but refused to grant consequential benefits from the date on which his juniors were promoted, as by the said order, the applicant was ordered to be promoted notionally w.e.f. 07.12.2001, the date on which his juniors were promotion and on actual basis w.e.f. the date of assumption of charge in the higher post. According to the case of

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the applicant, Annexure-A/1 has been issued in clear violation of the directions of the Tribunal given in O.A. No.20/2002 and R.A. No.11/2004. Therefore, the applicant has prayed to direct the respondents to modify the order dated 03.09.2007 (Annexure-A/1) and the office order dated 01.10.2007 (Annexure-A/2) to the extent of granting actual benefit to the applicant with all consequential benefits alongwith interest from the date on which his juniors were promoted.

3. On filing of the O.A, notices were issued to the respondents and in compliance to the notices, respondents appeared through lawyer and filed reply to the O.A. As per the pleadings of the respondents, their case is that in compliance of the decision of this Tribunal, the DOT authorized the BSNL to promote the applicant to the post of TES Group-B w.e.f. 07.12.2001 and accordingly order dated 03.09.2007 (Annexure-A/1) and office order dated 01.10.2007 (Annexure-A/2) were issued whereby the applicant was promoted from JTO to the grade of SDE (T) equivalent to TES Group-B notionally w.e.f. 07.12.2001 at par with his junior and actually with effect from the date of assumption of the charge in the higher post and thus the respondents have fully complied the direction of this Tribunal giving in O.A. No.20/2002 and R.A. No.11/2004.

4. Shri B.Khan, Advocate, appeared for the applicant whereas on behalf of the respondents Shri M.S. Godara, proxy counsel for Mr. Vinit Mathur, appeared and argued the case.

5. During the course of argument, Shri B. Khan, learned advocate of the applicant, draw our attention towards the concluding portion of the order of the Tribunal dated 26.10.2004 passed in O.A. No.20/2002 (Annexure-A/3) as well as the concluding portion of the order dated 10.05.2007 passed in R.A. No.11/2004 (Annexure-A/4). Learned advocate submitted that as per both the orders passed by the Tribunal, this Tribunal had categorically stated in its orders that if any juniors to applicant had been promoted to the TES Group-B post then the respondents shall conduct a review DPC and consider the case of the applicant also and if he is found fit and eligible, he will be given promotion from the same date on which his juniors were promotion with all consequential benefits. The learned advocate submitted that as per the order of the Tribunal, the applicant was entitled for promotion with all consequential benefits from the date on which his juniors were promoted, but by impugned orders the respondents have given notional promotion to the applicant from the date on which his juniors were promoted, meaning thereby that the applicant will not get any monetary benefits from the date on which his juniors got the monetary benefits. He submitted that the impugned orders have been issued in violation of the Tribunal's orders and so it should be modified accordingly.

6. In reply to the above arguments, the learned advocate of the respondents submitted that the impugned orders have been issued as per the instruction contained in DOP&T O&M dated 14.09.1992 and so the respondents have not committed any

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illegality by promoting the applicant notionally from the date on which his juniors were promoted and granting actual benefit from the date of assumption of charge by the applicant in the higher post.


7. We have heard the argument of both the sides. We have also perused the order of the Tribunal passed in O.A. No.20/2002 and R.A. No.11/2004. We are satisfied that the Tribunal had issued clear direction to the respondents to conduct a review DPC and consider the case of the applicant for promotion to TES, Group-B service if any of his juniors were already promoted to TES Group 'B' service, and if the applicant is found fit and eligible to promote him to TES Group 'B' service from the same date on which his juniors so promoted with all consequential benefits. This clearly goes to show that the Tribunal has ordered to give promotion to the applicant with all consequential benefits from the date on which his juniors were promoted. However, the order dated 03.09.2007 (Annexure-A/1) and the office order dated 01.10.2007 (Annexure-A/2) show that although the applicant has been promoted to the post of SDE (T) equivalent to TES Group-B from the date on which his juniors were promoted but no consequential benefits was given to the applicant at par with his juniors from the said date rather the applicant was ordered to be promoted notionally from the said date i.e. 07.12.2001, the date on which his juniors were promoted. In such view of the matter, we find that both the impugned orders have been issued in violation of Tribunal's order and so we are of

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the view that the applicant has got a good case in his favour and he is entitled to the reliefs claimed.

8. In the result, this O.A. is allowed and it is held that the applicant is entitled to get all actual benefits of his promotion to the grade of SDE (T) equivalent to TES Group-B i.e. w.e.f. 07.12.2001, the date on which his juniors were promoted and were granted actual benefits. The respondents are directed to modify the order dated 03.09.2007 (Annexure-A/1) and the office order dated 01.10.2007 (Annexure-A/2) and accordingly grant all consequential benefits of promotion to the applicant w.e.f. 07.12.2001. It is observed that the respondents shall comply the direction of this Tribunal within one month from the date of receipt/production of this order. No order as to costs.


[Sudhir Kumar]
Administrative Member


[Justice S.M.M. Alam]
Judicial Member