

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA No.43/2004

Dated Wednesday this the 3rd day of March, 2004.

C O R A M

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN  
HON'BLE MR.H.P.DAS, ADMINISTRATIVE MEMBER

M.J.Antony  
S/o M.A.Joseph  
Sub Divisional Engineer/Digital Transmission Station  
Southern Telecom Region  
Chalakkudi.  
Residing at Mullakkara House  
Bazar Road  
Trichur District.

Applicant.

(By advocate Mr.T.C.Govindaswamy)

Versus

1. Union of India represented by  
The Secretary to the Government of India  
Ministry of Communications  
(Department of Telecommunications)  
New Delhi.
2. The Chairman-Cum-Managing Director  
Bharath Sanchar Nigam Ltd  
Statesman House, B-148, Barakamba Road  
New Delhi.
3. The Chief General Manager, Maintenance  
Southern Telecom Region  
Bharat Sanchar Nigam Ltd.  
No.39, Rajaji Salai, Chennai.
4. The Chief General Manager  
Telecommunications  
Bharath Sanchar Nigam Ltd  
Kerala Circle  
Trivandrum.

Respondents.

(By advocate Mr.Sunil Jose, ACGSC)

The application having been heard on 3rd March, 2004, the Tribunal on the same day delivered the following:

O R D E R

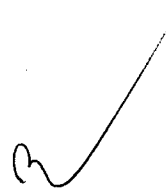
HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

The applicant was recruited as Junior Telecom Officer (JTO) against the vacancies of the year 1973 and was posted with effect from 19.5.75. He was along with many others promoted to Telecom Engineering Service Group 'B' (TES-Gr.B) on the basis of the year of passing of the qualifying examination by order dated

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13.7.93 and all those promoted were given the benefit of promotion with effect from 19.11.90. However, the applicant having been allotted to a circle other than Kerala Circle did not give effect to the promotion. Some others who had been allotted to other circles and those continued in other circles were re-allotted to Kerala Circle and their promotion was given effect to. The applicant kept on making representations. However, the applicant was promoted to TES-Gr.B with effect from 23.10.98. Finding that on the basis of the decision of the Apex Court in 2000 SCC (L&S) 835, the seniority in the cadre of TES-Gr.B was revised and the applicant was given placement in the seniority above his erstwhile juniors, the applicant submitted representations to give him fitment in TES Gr.B with effect from 19.11.90 on the basis of the seniority. A-2 is the copy of one such representations. The applicant submitted another representation dated 25.7.2002 to the Secretary, Department of Telecommunications, New Delhi. Finding no response to these representations, the applicant has filed this application for a declaration that the applicant is entitled to be fitted in TES Gr.B with effect from 19.11.90 i.e. on par with his juniors with all consequential benefits including arrears of pay and allowances flowing therefrom and to grant the applicant the benefit of promotion and fitment in TES Gr.B with effect from 19.11.90.

2. Although the counsel of the respondents took two adjournments to file a statement before admission, no statement has been filed. We therefore proceeded to peruse the application and heard the counsel on the question of admission.

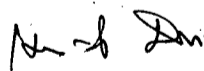


3. Sri T.C.Govindaswamy, the learned counsel of the applicant argued that since the seniority of the applicant above those who were promoted with effect from 19.11.90 has been restored by A-1 seniority list, it is incumbent on the part of the respondents to give him fitment in TES Gr.B with effect from the date on which his juniors were promoted namely 19.11.90. We do not find even prima facie any basis for such a claim. It is a case where the applicant was also promoted along with his alleged juniors by order dated 13.7.93, but the applicant refused to accept the promotion and continued in the lower post. He was promoted to TES Gr. B only with effect from 23.10.98 and the applicant has not challenged that order of his promotion in any proceedings either before this Tribunal or before any other legal forum.

4. We do not find any cause of action to the applicant which entitles him to have fitment in the TES Gr.B grade with effect from 19.11.90, the grade to which he was promoted w.e.f. 23.10.98 only.

5 In the light of what is stated above, finding no cause of action which calls for adjudication, we reject this application under Section 19 (3) of the Administrative Tribunals Act, 1985.

Dated 3rd March, 2004.



H.P.DAS  
ADMINISTRATIVE MEMBER



A.V.HARIDASAN  
VICE CHAIRMAN

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