

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 426/2001

Wednesday, this the 6th day of March, 2002.

CORAM :

HON'BLE SHRI A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE SHRI T.N.T. NAYAR, ADMINISTRATIVE MEMBER

M. Rajan,
S/o late V. Madhavan, aged 52 years,
Senior Superintendent of Telegraph Traffic(TTS),
Telegraph Traffic Division,
Bharath Sanchar Nigam Ltd, Calicut,
residing in Room No.212, CKM Tourist Home,
Mayoor road, Calicut.

... Applicant

(By Advocate Shri O.V. Radhakrishnan)

1. Chief General Manager,
Kerala Telecom Circle,
B.S.N.L., Thiruvananthapuram-695033.
2. Secretary,
Department of Telecommunications,
20, Sanchar Bhavan, Asoka Road,
New Delhi-1.
3. Bharath Sanchar Nigam Ltd. rep. by its
Chairman and Managing Director,
Corporate Office, Sanchar Bhavan,
New Delhi-1.
4. Union of India,
rep. by its Secretary,
Ministry of Communications,
Sanchar Bhavan,
New Delhi.

... Respondents

(By Shri K. Shri Hari Rao, ACGSC)

The application having been heard on 6.3.2002, the
Tribunal on the same day delivered the following :

ORDER

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

The applicant who was working as Senior
Superintendent(Telegraphic Traffic) in Group B is aggrieved that
by the impugned orders A6 and and A7, persons who are junior to
him have been promoted on adhoc basis to STS of TTS Group A in
the scale of Rs.10,000-325-15,200/-, ignoring the applicant's
seniority without justification, understanding that non
consideration for the adhoc promotion was on account of non




availability of his ACRs for no lapse on the part of the applicant, the applicant has filed this application seeking appropriate direction or order directing the respondents to include the name of the applicant above his immediate junior in Annexure A6 order promoting officers of TTS Group B to STS of TTS Group A and to promote him with effect from the date of his entitlement with all consequential benefits including arrears of pay and allowances and to allow the applicant to continue in STS of TTS Group A on temporary and adhoc basis till regular promotion to TTS Group A in accordance with rules.

2. The respondents in their reply statement did not dispute the fact that the persons at Sl. No. 8 to 58 on A6 and A7 are juniors of the applicant. However, they seek to justify the impugned action of non-inclusion of the applicant's name in A6 and A7 orders on the ground that it was done due to exigencies of service and the applicant was not promoted as his ACRs for the relevant period were not readily available. They further said in the reply statement that when the ACRs of the applicant become available, he was by R1(a) order dated 16.10.2001 promoted on adhoc basis to STS of TTS Group A and he has been relieved and posted to Tamilnadu Circle by orders at Annexure R1(b), R1(c) and R1(d).

3. The applicant has filed rejoinder. Referring to Annexure A8 Blue Book, it has been contended that as the juniors of the applicants were posted in Kerala Circle, if the applicant had been considered properly, he would have been promoted along with them and posted in Kerala Circle itself.

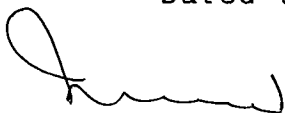
4. We have heard Shri O.V. Radhakrishnan, the learned counsel for the applicant, and Shri K. Shri Hari Rao, the learned counsel for the respondents.



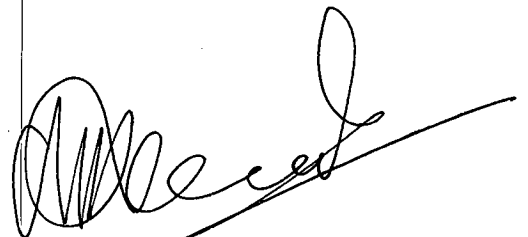
5. The case of the applicant that he was entitled to be considered for adhoc promotion along with his juniors at appropriate place above Sl. No.8 in A6 and A7, has not been specifically denied by the respondents. Non consideration of applicant for adhoc promotion and posting by A6 and A7 was according to the respondents on account of non-availability of ACRs of the applicant. If the ACRs were not readily available, it was not a lapse on the part of the applicant. Had the applicant been considered along with his juniors for adhoc promotion, he would have been between Sl. No.7 and 8 in A6 and his posting would have been in Kerala Circle itself as his juniors in A7. Therefore, if a review has been conducted by the respondents on the basis on tracing out the ACRs for the relevant period, the applicant should have been promoted w.e.f. date on which his juniors have been promoted and posted at the appropriate place on the basis of the seniority in the Kerala Circle itself.

6. In the light of what is stated above, we set aside A6 and A7 to the extent they exclude the name of the applicant and we direct the respondents to include the applicant's name in A6 between Sl. No.7 and 8 and to post the applicant in Kerala Circle, if necessary by displacing the juniormost person. The applicant shall be given arrears of pay and allowances w.e.f. date on which his junior was promoted under A6. The above directions shall be complied with within a period of two months from the date of receipt of a copy of this order. No order as to costs.

Dated the 6th March, 2002.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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A P P E N D I X

Applicant's Annexures:

1. A-1: True copy of the Memo No.ST.III/1-10/99(m) dated 18.2.1999 of the 1st respondent.
2. A-2: True copy of the Tripartite Agreement No.354-1/96-STG-III(Pt) dated 16.8.2000.
3. A-3: True copy of the letter No.354-1/96-STG-III(Pt) dated 25.8.2000 of the Director Department of Telecommunications, New Delhi.
4. A-4: True copy of the Memo No.SGL 4605/2000/10 dated 1.3.2001 of the 1st respondent.
5. A-5: True copy of the Memo No.ST-4/A/XXI/2000 dated 20.11.2000 of the 1st respondent.
6. A-6: True copy of the Order No.11/24/2000(STG) dated 10.5.2001 of the 4th respondent.
7. A-7: True copy of the Order NO.412-49/2001-Pers.I dated 17.5.2001 of the 3rd respondent.
8. A-8: True extract of the Blue Book List of Officers of the Department of Telecommunications Ministry of Communications of the year 1993.
9. A-9: True copy of the Order No.ST-111/4-25/TTS A/2001 dated 25.5.2001 of the 1st respondent.

Respondents' Annexures:

1. R-1(a): True copy of the order No.11/24/2000-STG-I dated 16.10.2001 of the 4th respondent.
2. R-1(b): True copy of the Order No.F.No.412-49/2001-Pers I dated 22.11.2001 of the 3rd respondent.
3. R-1(c): True copy of the letter NO.TSB/32-12/2001 dated 12.12.2001 of the Chief General Manager, BSNL, Tamil Nadu, Chennai to the 1st respondent.
4. R-1(d): True copy of the relieving order dated 10.1.2002 of the 1st respondent to the applicant.

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20.3.02