

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 458/98

Dated this the 6th day of September, 2001.

CORAM

HON'BLE MR. A.M.SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

K.J.George
S/o Late M.John
P.A Grade II
Director (Finance & Accounts)
Kollam SSA.
Residing at Kadayil, M.C.7/952,
Shasthri Jn.
Kollam - 691 001.

Applicant.

[By advocate Mr.M.R.Rajendran Nair]

Versus

1. The Chief General Manager
Telecom Kerala Circle
Trivandrum.
2. The General Manager
Telecom District
Kollam.
3. Union of India represented by the
Secretary to Government of India
Ministry of Communications
New Delhi.
4. Bharath Sanchar Nigam Ltd, represented
By the Chief General Manager
Bharath Sanchar Nigam Limited
Kerala Circle
Trivandrum.

Respondents.

[By advocate Mr.George Joseph, ACGSC]

The application having been heard on 6th September, 2001, the Tribunal on the same day delivered the following:

O R D E R


HON'BLE MR. A.M.SIVADAS, JUDICIAL MEMBER

Applicant seeks to declare that he is entitled to be considered for adhoc promotion in the post of Personnel Assistant Grade-II at least with effect from 1.2.97, to direct the respondents to consider him for adhoc promotion to the cadre of PA Grade-II at least with effect from 1.2.97 the date



from which he is continuing on officiating basis, to declare that he is entitled to be considered for regular promotion to the post of PA Grade-II along with his immediate juniors, to direct the respondents to consider him for such promotion before any of his juniors are promoted and to quash A-8.


2. Applicant was temporarily promoted to the cadre of Personnel Assistant Grade-II as per order dated 28.2.95. As per order dated 22.5.96 he was reverted as Steno Grade III with effect from 26.8.95. He was promoted to the cadre of PA Grade-II on adhoc basis and posted to Kottayam SSA as per A-1. He submitted A-2 representation for posting him at Kollam SSA instead of Kottayam SSA. The representation was forwarded from the office of the General Manager, Kollam with favourable recommendations and pointing out that the post of PA Grade-II sanctioned and created on 28.2.95 is lying vacant with effect from 27.8.95. He was informed that his request for posting in Kollam SSA as PA Grade-II cannot be considered for want of vacancy. Subsequently he was promoted to officiate as PA Grade-II as per A-4. He was reverted as per A-5 with effect from the afternoon of 30.7.97 and was again promoted to PA Grade-II for a period not exceeding 179 days with effect from 1.8.97. Continuous officiating arrangement when there existed a regular vacancy is illegal. There is no justification to deny adhoc promotion to him at least with effect from 1.2.97. He is liable to be considered for regular promotion. He has never declined the promotion granted to him. A-8 is illegal and arbitrary.



3. Respondents resist the OA contending that the applicant did not accept his promotion to Grade-II on adhoc basis. Stenographer cadre is a circle cadre and posting can be made anywhere in the circle as per administrative need. Since he declined the promotion offered at Kottayam, he was not eligible for promotion for a period of one year from that date. He was given local officiating promotion with effect from 1.2.97 consequent on arising of a vacancy of Steno Grade-II meant for Scheduled Caste quota. Subsequently with effect from 4.3.98 when a vacancy under Other Community category arose in Kerala Circle, he was offered adhoc promotion as Steno Grade-II. None of the officials junior to the applicant was granted regular promotion.

4. As per A-3 order, the applicant has declined the promotion as PA Grade-II. A-1 clearly states that the officials may be relieved within 30 days from the date of issue of the order. The applicant was locally officiating in a vacancy meant for SC quota since there was no clear vacancy for Other Community quota to consider regular posting of the applicant. Subsequently he was given adhoc promotion with effect from 4.3 98 in Kollam SSA itself on adhoc basis under Other category.

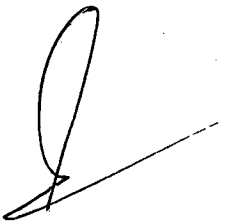
5. According to the applicant, there is no justification to deny him adhoc promotion at least with effect from 1.2.97 the date from which he is continuing on officiating basis. Respondents have clearly stated how he was given officiating promotion and how he could not be granted adhoc promotion.



6. As per A-1, applicant was promoted and posted at Kottayam SSA. He submitted A-2 and as per A-3 he was informed that his request for posting at Kollam SSA cannot be considered since there is no vacancy of PA Grade-II and since he has not joined the new post in Kottayam SSA within the stipulated time it is treated that he has declined the promotion as PA Grade-II. A-3 is dated 10.10.96. A-3 is not under challenge. If the applicant has not declined the promotion as contended by him and as A-3 says that it is treated that he has declined the promotion, the applicant should have challenged A-3. In the absence of any challenge to A-3, the applicant cannot now say that he has not declined the promotion. On the basis of A-3, the applicant cannot aspire for promotion before the expiry of one year from the date of A-3.

7. A-2 the representation submitted by the applicant says that he may be posted to Kollam SSA instead of Kottayam SSA. It indicates that he has refused to accept the posting on promotion at Kottayam and wanted to get a posting at Kollam.

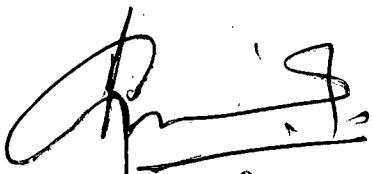
8. A-8 the impugned order says that the applicant instead of joining the promoted post wanted the posting at Kollam itself where he was working as Grade III Stenographer and he did not accept his promotion to Grade II on adhoc basis, that stenographer cadre is a circle cadre and that it was not possible to consider regular/adhoc promotion as demanded by the applicant. What is stated in A-8 with regard to the non



joining at Kottayam SSA and insisting on getting the posting at Kollam SSA is well supported by the materials made available. It is a case where he has not accepted his promotion on adhoc basis. That being the position, the applicant is not entitled to the reliefs sought for.

9. Accordingly the OA is dismissed.

Dated 6th September, 2001.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

aa.

A P P E N D I X

1. Annexure A1 : True copy of the order No.ST-11/29-11/94 dated 10.6.96 issued by the Assistant General Manager, O/o the 2nd respondent.
2. Annexure A2 : True copy of the representation dated 28.6.96 submitted by the applicant to the 1st respondent.
3. Annexure A3 : True copy of the Order No.ST-C/Genl/Steno/i 83 dated 10.10.96 issued by the Assistant General Manager(Admn) office of the 2nd respondent.
4. Annexure A4 : True copy of the order No.ST-c/Genl/Steno/I/91 dated 7.2.97 issued by the Assistant General Manager(Admn) Office of the 2nd respondent.
5. Annexure A5 : True copy of the Memo No-ST-C/Genl/Steno/II/6 dated 11.8.97 issued by the Assistant General Manager(Admn), Office of the 2nd respondent.
6. Annexure A6 : True copy of the representation dated 13-10-1997 submitted by the applicant to the 1st respondent.
7. Annexure A7 : True copy of the order dated 10.11.97 in O.A.1420/97 by this Hon'ble Tribunal.
8. Annexure A8 : True copy of the Memo No.ST-II/29-11/96-97 dated 17.12.1997 issued by the 1st respondent to the applicant.
9. Annexure A9 : True copy of the order No.ST-II/29-11/96-97 dated 4.3.1998 issued by the Assistant General Manager(Admn) for 1st respondent.

....