

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.464/2002

Tuesday this the 2nd day of July, 2002

CORAM

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

N.S.Kaladharan, S/o Sukumaran,
aged 46, Assistant Accounts Officer,
O/O the General Manager Telecommunications,
LIC Building, Pattom, Trivandrum
residing at TC 50/1568, Thaliyal,
Karamana, Trivandrum.2.

...Applicant

(By Advocate Mrs. Santhamma Issac)

V.

1. Union of India, represented by its
Secretary to Government of India,
Ministry of Communication &
Information Technology, New Delhi.
2. Member (Finance)
Telecom Commission, New Delhi.
3. Chief General Manager,
Kerala Telecom Circle,
Bharat Sanchar Nigam Limited,
Thiruvananthapuram.

..Respondents

(By Advocate Mrs. P. Vani, ACGSC)

The application having been heard on 2.7.2002, the
Tribunal on the same day delivered the following:

O R D E R

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

Applicant, Assistant Accounts Officer in the
office of the General Manager, Telecom, Trivandrum has
filed this application impugning the order dated
14.5.2002 (Annexure.A1) of the first respondent turning
down his claim for promotion as Accounts Officer with
effect from the date one Mr.Devan was promoted seeking
the following reliefs:

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.2.

- A. To declare that the applicant is entitled for regular promotion as Accounts Officer in P&T Accounts and Finance Service Group B (Gazetted) from 31.12.98 alongwith Sri devan who possess less service than this applicant.
- B. To direct the respondents to produce the 40 point roster before this Hon'ble Tribunal to find out the miscarriage of justice done to the scheduled tribe community particularly to the applicant.
- C. To direct the respondents to consider the applicant for such promotions against the 7½ percent quota reserved for scheduled tribe community with effect from the date of occurrence of that vacancy as per Annexure.AV.
- D. To declare that the applicant is entitled to get promotion as Accounts Officer from 31.12.98 on that date the applicant is eligible to get promotion as there existed more vacancies for scheduled tribe community on that date.
- E. To declare that the applicant is eligible to get officiating promotion wherever vacancies available, since the persons promoted as per Annexure.A.VII is very junior than the applicant especially the second respondent have stated in Annexure.AI order that for giving officiating adhoc promotions the performance of the official is not counted, pending disposal of the original application.
- F. Grant such other reliefs as may be prayed for and the tribunal may deem fit to grant;
- G. To direct the respondents to reconsider the entire issue:
and
- H. Grant the costs of this original application.

2. The applicant had earlier filed OA 90/2002 aggrieved by his non-promotion with effect from 23.9.98 and has stated that his representation made in that regard dated 10.12.2001 had not been disposed of. As agreed to by the counsel on either side, that application was disposed of with a direction to the respondents to consider the said representation giving an appropriate reply to the applicant.

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.3.

3. The impugned order Annexure.A1 has been passed pursuant to the above orders of the Tribunal. It is alleged in the application that the respondents did not consider the applicant at the DPC held on 1.10.1997 while Shri Devan was considered and promoted by Annexure.A5 order dated 15.1.99, that while making promotions to the cadre of Accounts Officer the 40 point roster was not properly followed for the Scheduled Tribes Communities (the applicant belongs to Scheduled Tribe Community) and that the non-promotion of the applicant with effect from 23.12.98 is unjustified.

4. We have perused the application and all the materials placed on record and have heard Smt.Santhamma and Issac, learned counsel of the applicant / Smt.P.Vani, learned ACGSC appearing for the respondents. A perusal of the impugned order Annexure A.1 clearly shows that the applicant's representation was considered, the claim of the applicant for promotion alongwith Shri Devan was resisted on the ground that Devan was senior to the applicant by 254 places, that the applicant did not have the required length of service to be considered for promotion as on 1.10.97, that when the applicant was considered for promotion by the DPC which met on 1.1.2000 he was not promoted because the DPC did not recommend him for promotion, that this fact had been intimated to the applicant on 21.7.2000 and that the non-promotion of the applicant was not on account of non-availability of vacancy earmarked for Scheduled Tribes but on account of the fact that the DPC did not recommend the applicant for promotion.

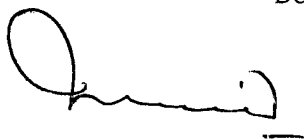
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5. Learned counsel of the applicant argued that the respondents have considered Mr. Devan for promotion as Accounts Officer on 1.10.97 though ^{he} did not have the required length of service and therefore, the applicant has been discriminated against.

6. Promotion of Devan took place in the year 1998. The applicant did not challenge it. First time the applicant made his grievance regarding non-promotion along with Mr. Devan was more than a year after Devan was promoted by representation dated 9.5.2000. Therefore, the grievance of the applicant regarding non-promotion with effect from the date on which Devan was promoted is barred by limitation. Further that Devan was considered despite his not having required length of service is not a ground for the applicant to claim consideration for promotion. If Devan had been irregularly considered by the department, that does not entitle the applicant for consideration without having the required length of service. The non-promotion of the applicant was not on account of want of vacancy reserved for ST candidates but on account of the DPC not finding him fit. Under these circumstances, we do not even prima facie find any infirmity in the impugned order, which requires admission of this application and further deliberation.

7. The application is therefore, rejected under Section 19(3) of the Administrative Tribunals Act, 1985.

Dated the 2nd day of July, 2002



T.N.T. NAYAR
ADMINISTRATIVE MEMBER

(s)



A.V. HARIDASAN
VICE CHAIRMAN

A P P E N D I X

Applicant's Annexures:

1. A-I: True copy of order No.37-1/2002-SEA (Legal) dated 14.5.2002 issued by the 2nd respondent.
2. A-II: True copy of judgment dated 1.2.2002 in O.A No.90/02 of the Hon'ble Central Administrative Tribunal, Ernakulam Bench.
3. A-III: True copy of representation dated 10.12.2001 from the applicant to the 2nd respondent.
4. A-IV: True copy of additional representation dated 22.2..2002 from the applicant to the 2nd respondent.
5. A-V: True copy of promotion order No.10-3/97-SEA dated 15.1.99 issued by the 2nd respondent.
6. A-VI: True copy of the seniority list complied by the All India P & T Accounts and Finance Officers Association, Mumbai.
7. A-VII: True copy of promotion order No.ST/II/6-II/2001 dated 7.6.2002 issued by the 3rd respondent.
8. A-VIII: True copy of letter No.ST-II/JAO/113 dated 21.7.2000 issued by the 3rd respondent enclosing copy letter from the 2nd respondent.
9. A-IX: True copy of representation dated 9.5.2000 from the applicant to the 2nd respondent.
10. A-X: True copy of letter No.DFA/CF/CR/2000/126 dated 26.4.2000 issued to the applicant by GMT, Kannur.
11. A-XI: True copy of letter No.GMCE/CON/CR dated 26.2.01 issued by GMT, Kannur.

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