

**CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH**

O.A. No. 49 of 1997.

Monday this the 10th day of August 1998.

**CORAM:**

HON'BLE MR. P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

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

1. M. Sukumaran,  
Senior Technical Supervisor,  
Telephone Exchange, Ponnani.  
(Residing at Kannamkodath House,  
Edappal P.O.)
2. N. Lakshmanan Nambiar,  
Senior Technical Supervisor,  
Telephone Exchange, Ponnani.  
(Residing at Saranath, Edacherry,  
Kannur.)
3. K.G. Janardhanan Pillai,  
Senior Technical Supervisor,  
Telephone Exchange, Haripad.  
(Residing at Preetha Nivas,  
Plapuzha, Haripad).

(By Advocate Shri M.R. Rajendran Nair)

Vs.

1. The Chief General Manager, Telecom, Kerala Circle, Trivandrum.
2. Union of India represented by Secretary to Government, Ministry of Communications, New Delhi... Respondents

(By Advocate Shri Govindh K. Bharathan, SCGSC)

The application having been heard on 10th August, 1998 the Tribunal on the same day delivered the following.

ORDER

HON'BLE MR. P.V. VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicants who are working as Senior Technical Supervisors in the Telecom Department submit that one of their juniors Mr. Jayaprakash Narayanan was promoted to the Higher Grade on completion of ten years service on 15.4.96 whereas though they were seniors, applicants were

promoted to the Higher Grade only on 24.12.77, 27.7.77 and 27.12.77 respectively. They prayed that they be granted promotion to the Higher Grade with effect from 15.4.1976, the date on which their junior Shri Jayaprakash Narayanan was so promoted.

2. Respondents submit that the promotion granted to Shri Jayaprakash Narayanan on 15.4.76 is not correct and that he was due for promotion only on 27.12.77. A notice has been issued to Shri Jayaprakash Narayanan granting him three months' time for submitting a representation against the proposal to revise his date of promotion as 27.12.77 instead of 15.4.76. Shri Jayaprakash Narayanan asked for three months' time to give a reply and the time was given by Annexure R-1 (A) dated 30.1.97 and three months' time was granted with effect from 17.12.96. Respondents also submit that it is true that Technicians on completion of ten years service were eligible for consideration for promotion to Higher Grade as per availability of vacancies in the higher grade only. Senior officials with the required service who were within the number of vacancies available from time to time were promoted. Applicants cannot plead that they should also be granted the erroneous, promotions which was given to Shri Jayaprakash Narayanan.

3. The applicants have stated that the Technicians on completion of ten years service were entitled to get promotions as Higher Grade Technicians. No rules have been produced in support of this statement. On the other hand respondents have submitted that the promotion to the Higher Grade would only be according to the availability of vacancies in the Higher Grade and not automatically on completion of ten years service. Before completion of ten years service a person is not eligible for consideration for promotion to higher grade

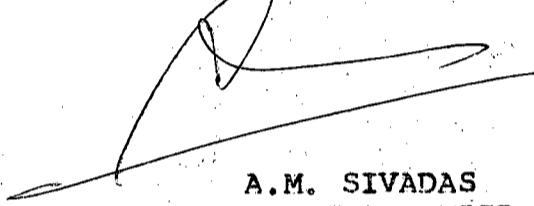
and once he has become eligible, he will be promoted depending on the vacancies available from time to time. We also notice that the 1st and 2nd applicants approached the Tribunal praying for the same relief in O.A. 1475/95 and the Tribunal recorded the submission of the Standing Counsel that the date of promotion of Jayaprakash Narayanan was being reviewed and that the claims of the applicants would be considered and appropriate orders passed and disposed of the application without issuing any directions. It was subsequent to these decisions of the Tribunal that respondents issued notice to Shri Jayaprakash Narayanan as seen from Annexure R-1 dated 2.12.96. Shri Jayaprakash Narayanan had in turn requested three months' time more to give a detailed reply and the time sought was granted with effect from 17.12.96 by Annexure R-1 dated 30.1.97. Before this time expired, the applicants herein two of whom also were applicants in O.A. 1475/95 filed this application on 2.1.97 challenging A-6 dated 8.2.96 by which they have been informed that the case of Shri Jayaprakash Narayanan is under further examination and similar cases are also pending and on finalisation of the above case, the claim of the instant case will also be settled. Since this was under challenge, in this application, the learned Senior Central Government Standing Counsel submitted that the department was unable to finalise the review of the promotion of Shri Jayaprakash Narayanan. The two of the applicants herein had obtained an order of the Tribunal in O.A. 1475/95 and it was clear to them that their case would be considered on finalisation of the review of the promotion of Shri Jayaprakash Narayanan. By filing this application challenging Annexure A-6 they effectively prevented the department from finalising the review of the promotion of Shri Jayaprakash Narayanan and complying with the orders of the Tribunal in O.A. 1475/95. Applicants cannot be allowed to profit

from such tactics. Learned Senior Central Government Standing Counsel submits that this was an abuse ~~of~~ of the process of Court. The attitude of the applicant is to be deprecated.

4. Since the applicants have already obtained the order of the Tribunal in O.A. 1475/95 we see no reason to issue any further directions in this application.

5. Under the circumstances of the case we dismiss the application with costs of Rs.1000/- to be paid to the respondents.

Dated the 10th day of August, 1998.



A.M. SIVADAS  
JUDICIAL MEMBER



P.V. VENKATAKRISHNAN  
ADMINISTRATIVE MEMBER

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LIST OF ANNEXURES

1. Annexure A6: True copy of the letter No. STA/11-21/96/Pt dated 8.2.1996 issued by the Assistant Director (Staff-I) for 1st respondent and addressed to the Telecom District Manager, Alleppey and Sub Divisional Engineer(Phones). Haripad.
2. Annexure R1: True copy of letter No.Q-3059/157 dated 2.12.96 of Telecom District Manager, Dept. of Telecommunications, Palakkad.
3. Annexure R1(A): True copy of letter No.Q-3859/159 dated 30.1.97 issued by the Telecom District Manager, Dept. of Telecommunications, Palakkad.

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