

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.569/2001

Thursday this the 5th day of July, 2001

CORAM

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

K.P.Lalitha,
Senior Telephone Supervisor (Operative)
Ayyappankavu Telephone Exchange,
Ernakulam,
Kochi.18.Applicant

(By Advocate Mr.P.Chandrasekhar)

V.

1. The Union of India, represented by
Secretary,
Ministry of Communications,
New Delhi.
2. The Director General,
Telecommunications,
New Delhi.
3. The Chief General Manager,
Bharat Sanchar Nigam Limited,
Kerala State,
Telecom Door Sanchar Bhavan,
Thiruvananthapuram.
4. Shri M.P.Sreekumar,
Assistant Director (Official Language)
Office of the PGMT, Telecommunications,
Catholic Centre, Broadway,
Kochi.31.Respondents

(By Advocate Mr. P.Vijayakumar,ACGSC)

The application having been heard on 5.7.2001, the Tribunal
on the same day delivered the following:


O R D E R

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

The applicant, Senior Telephone Supervisor
(Operative) Ernakulam has filed this application for a
declaration that she is entitled to be regularised in the
post of Hindi Translator Gr.I with effect from 16.8.93 and

is entitled to all consequential benefits, that she is entitled to officiating promotion as AD(OL) in preference to the 4th respondent and for a direction to the third respondent to regularise the services of the applicant as Hindi Translator Gr.I with effect from 16.8.93 and to promote the applicant as Assistant Director (OL) on officiating basis. It is alleged in the application that the instructions contained in the letter of the Ministry of Communications dated 19.5.87 (A.21) enables the administration to regularise the services of Hindi Translators Gr.I working on officiating basis irrespective of their age provided they were borne in the department prior to the officiation and that while many persons similarly situated like the applicant officiating as Hindi Translator Gr.I were regularised from 1994 till 1998 the applicant was not so regularised and that after reverting the applicant from the post of Assistant Director (OL) by order dated 29.11.99 (A.16) the 4th respondent who was holding a post one step below the applicant has been appointed on the post. It has been further alleged that the action of the respondents in not regularising the applicant as Hindi Translator Gr.I and appointing the 4th respondent as Assistant Director (OL) is arbitrary and discriminatory. It is with the above submissions, that the applicant seeks the reliefs as aforesaid.

2. We have perused the application and all the annexures appended thereto and have heard Shri Chandrasekhar

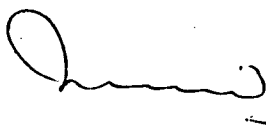


learned counsel of the applicant and Shri P.Vijayakumar, Additional Central Govt. Standing Counsel appearing for the respondents. We find that the applicant does not have a subsisting grievance which calls for admission of this application. The claim of the applicant for regularisation of his services as Hindi Translator Gr.I if at all was alive only till she was reverted from that post. If many persons junior to the applicant were regularised during 1984 and thereafter while the applicant was not regularised and if she was entitled for regularisation she should have agitated the question at that time. She has not done so. The applicant was reverted way back in the year 1999 by order dated 29.11.99 (A16) and the counsel of the applicant states that the 4th respondent was appointed on the post of Assistant Director (OL) immediately thereafter. The right of the applicant to challenge the appointment of the 4th respondent and claim appointment as Assistant Director (OL) in his place became barred by lapse of one year from that date. The learned counsel of the applicant states that the applicant had filed an Original Application No.1111/98 which was with the leave of the court withdrawn on 9.4.2001 and that therefore the claim is within the period of limitation. We are not persuaded to accept this argument. The applicant was only permitted to withdraw OA 1111/98 without prejudice. The order did not contain anything to indicate that irrespective of the period of limitation, the applicant would be entitled to file another application on the same cause of action. The learned counsel of the applicant

further stated that ignoring the senior officials for appointment to higher posts and appointing junior officials is arbitrary and irrational and therefore the Tribunal should exercise jurisdiction in such matters. We have no dispute on the fact that the Tribunal should exercise jurisdiction if a subsisting legitimate grievance is projected in an application. As stated supra the grievance of the applicant on his reversion from the post of Assistant Director (OL) and appointment of the 4th respondent arose in 1999. The applicant did not seek any remedy for more than a year. After the cause of action if any got barred under the provision of Section 21 of the Administrative Tribunals Act by laps of one year he made a representation on 27.4.2001 and filed the application shortly thereafter. As the applicant had made the representation and has approached the tribunal beyond the period of limitation prescribed in Section 21 of the Administrative Tribunals Act for challenging her reversion and appointment of the 4th respondent, we are of the considered view that the application has to be rejected on the ground of limitation.

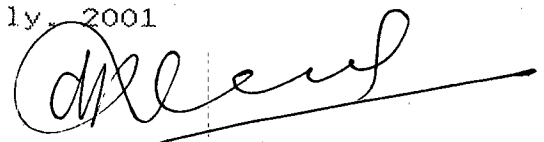
3. In the light of what is stated above, we find that the applicant does not have a subsisting cause of action deserving admission of this application and further deliberation. The application is, therefore, rejected under Section 19(3) of the Administrative Tribunals Act.

Dated the 5th day of July, 2001



T.N.T. NAYAR
ADMINISTRATIVE MEMBER

(s)



A.V. HARIDASAN
VICE CHAIRMAN

List of annexures referred to:

Annexure.A16: True copy of the Order No.ST.III/1-9/98 dated 29.11.99 sent by S.Sankaran Potti, Asst.General manager (Admn) Office of the Chief General Manager, Telecommunications, Kerala Circle, Trivandrum to the applicant.

Annexure.A21: True copy of the letter No.E.11021/1/86-OL dated 19.5.1987 sent by R.C.Gutpa, Secretary, Postal Services Board, to all heads of postal circles.

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