

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.618/2001.

Monday this the 3rd day of November 2003.

CORAM:

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

V.Sal Sudhan, T.O.A.,
Office of the Principal General Manager,
Telecom, (BSNL), Catholic Centre, Ernakulam,
Kochi-682 031. Applicant

(By Advocate Shri M.R.Rajendran Nair (rep.))

Vs.

1. The Assistant General Manager (Admn),
Office of the Principal General Manager,
Telecommunications, Ernakulam.
2. The Principal General Manager,
Telecommunications, Ernakulam.
3. Bharath Sanchar Nigam Limited, represented by
the Chief General Manager,
Kerala Circle, Trivandrum.
4. Union of India represented by the Secretary to
Government, Department of Telecom,
Ministry of Communications,
New Delhi. Respondents

(By Advocate Shri M.Rajendrakumar, ACGSC)

The application having been heard on 3.11.2003,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

The applicant is a Telecom Office Assistant (TOA for short), a Group 'C' post. Admittedly, he has been absorbed in the Bharat Sanchar Nigam Limited (BSNL for short) w.e.f.1.10.2000, the date on which the Department of Telecom was converted into a corporate entity. Thus, he is a full-fledged employee of the BSNL. This factual position is not denied.

2. The grievance of the applicant is that promotion to Grade-II under OTBP Scheme which was due to him has not been given to him, although the order of penalty levied on him, the appellate order confirming such penalty and the revisional order upholding the appellate order were all set aside by this Tribunal by A-7 order dated 9.8.99 in O.A.454/97, with liberty to the respondents to take fresh action against the applicant for the misconduct which was confirmed on the basis of the orders impugned in the said O.A.

3. The respondents have resisted the O.A. by filing a reply statement and an additional reply statement, and the applicant has endeavoured to substantiate his case by filing a rejoinder. However, in the additional reply statement dated 29.10.03, the 2nd respondent has, among other things, raised the contention that this Tribunal has no jurisdiction to deal with the grievance raised by the applicant in this O.A. in the light of the order of this Bench of the Tribunal in O.A.492/02 and connected cases. It is also submitted by the respondents that, the applicant's case for promotion cannot be considered before the disciplinary proceedings initiated against him are finalised. It is stated that the disciplinary proceedings are in progress and hence, the applicant cannot have a case for promotion at present.

4. We have gone through the material on record and heard Shri M.R.Rajendran Nair for applicant and Shri M.Rajendrakumar, ACGSC for respondents. Before us it was pointed out by the learned ACGSC that since the applicant is already an absorbed Group'C' employee of BSNL, this Tribunal has no jurisdiction to deal with the matter agitated in this O.A. This position has been accepted

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and declared by this Tribunal in the order dated 15.5.2003 in O.A.No.492/02 and connected cases, Shri Rajendrakumar would point out.

5. Learned counsel for the applicant on the other hand submits that the disciplinary proceedings having been initiated prior to the coming into being of the BSNL and the order setting aside the impugned penalty order, the appellate order and the revisional order was passed by this Tribunal giving liberty to the respondents viz., Government of India, (Department of Telecom) to initiate fresh proceedings, the jurisdiction is left with the Tribunal since the whole matter was delayed by the Telecom Department due to their inaction. Accordingly, this Tribunal should exercise proper jurisdiction and decide the matter, the learned counsel would maintain.

6. On a careful consideration of the facts on record and the contentions raised on either side, we are of the view that this Tribunal does not have jurisdiction in regard to the erstwhile Telecom Group 'C' employee who was absorbed in the BSNL with effect from 1.10.2000, when the Department of Telecom was converted into a corporate entity viz., BSNL. It is not as though the applicant would not have any remedy with regard to his grievance. This Tribunal has no jurisdiction over the BSNL and hence its employees, since BSNL is not notified as per Section 14(2) of the Administrative Tribunals' Act. This matter has been made clear in our detailed order dated 15.5.2003 in O.A.492/02 and related cases.

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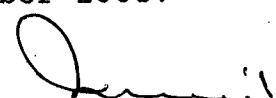
7. In the circumstances, we hold that this Tribunal has no jurisdiction to deal with the matter and has no alternative, but to reject the application. The applicant may take up his case at the appropriate forum for remedy, if any.

8. O.A. is rejected under Section 19(3) of Administrative Tribunal's Act, 1985.

Dated the 3rd November 2003.



K.V. SACHIDANANDAN
JUDICIAL MEMBER



T.N.T. NAYAR
ADMINISTRATIVE MEMBER

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