

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 136/2002

Thursday, this the 30th day of January, 2003.

CORAM :

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

K.N. Parameswaran Nair,
S/o late G. Padmanabhanicker,
Divisional Engineer,
S.F.M.S.J., Central Telegraph Office,
BSNL, Cochin, residing at Sreekovil,
Thumarakulangara, Tripunithara.

... Applicant

(By Advocate Mr. M.R. Rajendran Nair)

Vs

1. Union of India, rep. by the
Secretary to the Ministry of
Communications, Government of India,
New Delhi.
2. The Chief General Manager,
Telecom, BSNL,
Kerala Circle,
Thiruvananthapuram.
3. The Chairman and Managing Director,
Bharat Sanchar Nigam Ltd.,
New Delhi.

... Respondents

(By Mr. M.R. Suresh, ACGSC)

The application having been heard on 30.1.2003, the
Tribunal on the same day delivered the following :

ORDER

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

The applicant commenced his service as Telegraphist on 10.1.1964. He was promoted as Assistant Superintendent of Telegraph Traffic w.e.f. 26.12.1973 through an All India Competitive Examination. He was promoted to the post in Telegraph Services Group B on the basis of seniority-cum-fitness in the year 1984. There was a proposal for merger of Telegraph Traffic Wing with Telegraph Engineering Wing. There has been litigations concerning that. Ultimately the proposal for merger was withdrawn ab-initio by order dated 29.6.2000. Since the

promotions in the 2 Wings had not been carried out, the applicant had filed OA No.1505/1998 claiming promotion on the basis of the proposal to merge. The said OA along with connected cases were disposed of directing the official respondents to work out the equities in favour of the applicants in accordance with the decision contained in the order dated 25.8.2000 in the light of the tripartite agreement signed on 16.8.2000. Finding that in spite of occurrence of vacancies in TTS Group A, the applicant was not considered for promotion with effect from the due date, the applicant has filed this application seeking the following reliefs :-

(i) Declare that the applicant is entitled to be considered for promotion to Group A w.e.f. from the date of occurrence of vacancy according to his seniority and to direct the respondents to consider him for regular promotion to Group A with effect from the date of occurrence of vacancies in TTS Cadre in his due turn and to promote him with retrospective effect from the date on which promotion found due to him with all consequential benefits including arrears of pay and allowances.

(ii) Grant such other relief as may be prayed for and the Tribunal may deem fit to grant, and

(iii) Grant the costs of this Original Application.

2. The respondents in the reply statement contend that the applicant belonging to TTS Group B can be considered for promotion as TTS Group A whenever he completes the equivalent length of service as in the case of TES Group B promoted to STS of ITS Group A on regular basis as envisaged in the tripartite agreement signed between TTOA, ITSA and DTO. To substantiate the pleadings, respondents had produced Annexure R-2 order dated 24.8.2000.

3. The applicant has filed a rejoinder. He has categorically stated that comparison of officer in the grade of TES Group B promoted to STS of ITS Group A has no relevance for promotion of an officer of TTS Group B to TTS Group A as provided in Clause 2

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of Annexure R-2. Respondents have filed additional reply statement in which the same contention that the promotion of officers in TTS Group B to STS of TTS Group A would be considered in their own stream only when they complete the length of service equivalent to officers in TES Group B promoted to STS of ITS Group A on regular basis.

4. We have gone through the pleadings and material placed on record and have heard the counsel on either side.

5. Since the proposal for merger has been abandoned ab-initio and the terms under which promotions are to be made have been mentioned in Annexure R-2 dated 24.8.2000, the entitlement of the applicant has to be seen with regard to the relevant Clause 1 and 2 in Annexure R-2. It is profitable to extract Clause 1 and 2 to Annexure R-2 as other clauses are immaterial to the issue. Clause 1 and 2 of Annexure R-2 are as follows :-

"Based upon an agreement reached between Department of Telecom Operations, Telegraph Traffic Officers Association and Indian Telecom Service Association, following orders conveying approval of competent authority on points requiring action by Circles are hereby issued :-

1. The department will provide promotions to the officers of TTS Group A from the grade they are holding on regular basis to the next higher grade when an officer in TTS Group A with equal length of regular service in same grade is promoted. To enable implementation of these promotions, a gradation list of TTS officers indicating their notional numbers vis-a-vis the ITS officers in the same grade is being prepared and being sent to Circles shortly.

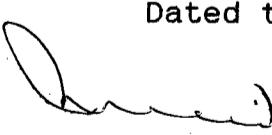
2. Promotion of TTS Group B officers will be provided against vacancies of STS of TTS in their own stream. A statement showing details of sanctioned and vacant posts in STS of TTS as per available records is placed at Annexure-I. Circles are requested to immediately confirm/furnish the latest status of sanctioned working strength in this respect so that DPC for promotion to STS of TTS may be conducted. "

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5. Clause 1 of what is quoted above applies in the case of promotion of officers in the TTS Group A to other grades. Hence the TTS officer would be entitled to be promoted to next higher grade after putting an equal length of service of ITS officer for promotion to that grade. In this case, Clause 1 does not apply because promotion is claimed from TTS Group B to Group A. So it is the second Clause which must apply. Comparison of length of service in the other ~~stream~~ is not ^{called for} ~~called~~ in this case. The TTS Group B officers are to be promoted to Group A in their own stream. It is evident from Annexure A1 to R2, there are 65 vacancies in TTS Group A. The applicant is said to be Serial No.7 in the All India seniority list of TTS Group B. Hence the respondent should have considered the applicant to TTS Group A in his own stream with reference to the date of occurrence of the vacancy in his turn. This exercise has not been gone into. We are informed that the applicant is to retire on 31.1.2003.

6. In the light of what is stated above, we dispose of this application directing the respondents to consider the promotion of the applicant to TTS Group A in his turn against one of the 65 vacancies available with reference to the date of occurrence of vacancies. If he is found eligible and suitable, he should be promoted with effect from the due date respectively with all consequential benefits. The above direction shall be complied with by the respondents and consequential benefits made available to the applicant within a period of four months from the date of receipt of a copy of this order. No costs.

Dated the 30th January, 2003.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER

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A.V. HARIDASAN
VICE CHAIRMAN