

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.252/99

Tuesday, this the 17th day of July, 2001.

CORAM;

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

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

R.Ravindranathan,
Officiating Assistant
Chief Accounts Officer(Internal Check),
O/o the Chief General Manager,
Trivandrum. - Applicant

By Advocate Mr Thomas Mathew

(Vs)

1. Chief General Manager,
Telecom,
Kerala Circle,
Trivandrum.
2. General Manager(Finance),
Telecom,
O/o the General Manager,
Trivandrum.
3. Chairman-cum-Managing Director,
Bharath Sanchar Nigam Ltd,
Sanchar Bhavan,
New Delhi. - Respondents

By Advocate Mr P Vijayakumar, ACGSC

The application having been heard on 17.7.2001, the Tribunal
on the same day delivered the following:

O R D E R

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

The applicant, an officiating Assistant Chief Accounts
Officer, when he filed this application, has prayed for a
declaration that he is entitled to be posted to officiate as
Assistant Chief Accounts Officer and also Chief Accounts

62

Officer as per seniority, that he is entitled to the pay and allowances of the promoted post from the date on which applicant's juniors had been promoted and posted with consequential benefits and for a direction to the respondents to promote the applicant as Assistant Chief Accounts Officer as also Chief Accounts Officer with consequential benefits and to quash the stipulation in A-14 that those who decline promotion would not be considered for ad hoc promotion for one year. It is alleged in the application that while the applicant was at Sl.No.608 in the seniority list of Senior Accounts Officers, persons who were at Sl.No.608 to 628 were given ad hoc promotion as Assistant Chief Accounts Officers and Chief Accounts Officers by orders at A-3 and A-5, A-10, A-12 and A-13 and that while he was promoted as Chief Accounts Officer by A-14, there was a stipulation that the officer who declines promotion would not be considered for further promotion on ad hoc basis for a period of one year. Aggrieved, the applicant has filed this application praying for the reliefs as aforesaid.

2. The respondents in their reply statement resist the claim of the applicant on the ground that till 2.3.98, as he was on long leave and after he returned from leave, the applicant's conduct was under investigation from 2.3.98 onwards, as is evident from R-1 to R-7, the applicant could not be promoted on ad hoc basis. Regarding his not being promoted as Chief Accounts Officer, it is contended that as the post is in Group-A, promotion is made on the basis of

selection even on ad hoc basis considering the service profile of the applicant including the adverse entries and pendency of investigation into his conduct of irregularities in accounts, the applicant could not be promoted. The respondents have stated that the the applicant was later promoted as Assistant Chief Accounts Officer and that he declined promotion as Chief Accounts Officer when he was promoted on ad hoc basis. It is also contended that the stipulation in A-14 order is ^{as} per rules and instructions.

3. We have heard the learned counsel on either side. We have also with meticulous care gone through all the material placed on record. The applicant was not promoted on ad hoc basis when his juniors Shri Sasidharan and Shri Shembagaraman were promoted on ad hoc basis on 8.1.98 because he was on long leave from 17.11.97 to 2.3.98. Ad hoc promotion cannot be granted to a person who is continuing on leave. Hence the nonpromotion of the applicant at that time cannot be faulted. Even after he rejoined duty from leave, he was not promoted on ad hoc basis on short term vacancies because his conduct was under investigation and the proceedings had not ended. It is seen that by Memo dated 24.2.98(R-1), the applicant was requested to explain the circumstances under which certain irregularities which amounted to dereliction of duties were committed. Documents R-2 to R-5 show that the conduct of the applicant was pending investigation and enquiry and that ultimately by order at R-5 dated 18.12.98, the Chief Accounts Officer terminated the proceedings holding the applicant

guilty of some lapses giving him a severe warning. The action of the respondents in not giving the applicant ad hoc promotion during the period is perfectly justified in view of the provisions contained in para 156(1) of P&T Manual Vol.III which provide that an officer whose conduct is under investigation should not be considered for promotion to short term vacancies. Since the post of Chief Accounts Officer is a Group 'A' post on account of the investigation, as also because of the service records he could not be promoted earlier and he was promoted as Chief Accounts Officer by order dated 10.3.99(A-14) when his ACR for the year 1997-98 became available. We do not find anything wrong with the action of the respondents since the condition in A-14 order that those who decline promotion would not be again considered for a year cannot be faulted since that condition has been imposed on the basis of the general instruction on the subject.

4. In the light of what is discussed above, the application which is devoid of merit is dismissed, leaving the parties to bear their own costs.

Dated, the 17th July, 2001


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

trs

LIST OF ANNEXURES REFERRED TO IN THE ORDER:

1. A-3: True copy of order No.ST-II/1-3/98 dated 22.3.98 issued by the 1st respondent.
2. A-5: True copy of order No.ST-II/1-3/98 dated 10.6.98 issued by the 1st respondent.
3. A-10: True copy of memo No.ST-II/1-3/98 dated 18.12.98 issued by the General Manager(Fin) for and on behalf of 1st respondent.
4. A-12: True copy of memo No.ST-II/1-3/98(pt) dated 4.1.99 issued for and on behalf of the 1st respondent.
5. A-13: True copy of Order No.ST-II/1-3/99 dated 12.1.99 issued by the 2nd respondent.
6. A-14: True copy of Order No.ST-II/1-3/99 dated 10.3.99 issued on behalf of 1st respondent.
7. R-1: True copy of memo No.TA/IC/8-11/EE Elec Dn/TVM/1-98 dated 24.2.98 issued from the office of the 1st respondent.
8. R-2: True copy of letter No.TA/IC/8-11/EE Elec TVM/4/96 dated 19.3.97 issued from the office of 2nd respondent.
9. R-3: True copy of letter No.TA/IC/8-11/EE Elec dated 19.3.98 issued from the office of the 1st respondent.
10. R-4: True copy of letter No.5(Q3)/ELECT/TVM/98/14 dated 27.3.98 issued by EE(Elec.) Telecom Electrical Dn.
11. R-5: True copy of memo No.TA/IC/8-11/EE Elec/TVM/198 dated 18.12.98 issued by the 1st respondent.
12. R-6: True copy of GM TD/TV/Con/GOCR 94-95 dated 25.1.95 issued from the office of 1st respondent.
13. R-7: True copy of ST.II/1-3/99 dated 10.3.99 issued from the office of the 1st respondent.