

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.342/97

Friday the 24th day of September 1999.

CORAM

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

A. Madhavi
W/o Sudhakara Kurup
Senior Telephone Supervisor
Telephone Exchange
Attingal.

...Applicant

(By advocate Mr M.R.Rajendran Nair)

Versus

The General Manager
Telecom District
Thiruvananthapuram.

...Respondent

(By advocate Mr M.H.J.David, ACGSC)

The application having been heard on 24th September 1999, the Tribunal on the same day delivered the following:

O R D E R

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

The sole question in this case for consideration is whether the period of dies-non is to be reckoned for counting the period of service for the purpose of promotion under the Biennial Cadre Review Scheme (BCRS for short). According to the scheme, an employee on completion of 26 years of service is entitled to promotion to next higher grade. In the case of the applicant here, going by the date of her entry into service, she would have completed 26 years of service on 3.10.92 and ^{would have been} entitled to be promoted with effect from 1.1.93. However, she was given promotion only with effect from 1.7.94 because the period of unauthorised absence from duty of 540 days which was treated as diesnon was not reckoned as service. Applicant's representation for BCRS promotion (Annexure A-3) dated 19.10.96 has not been considered and disposed of so far. Therefore, the applicant has filed this application for

a declaration that she is entitled to be promoted to Grade-III w.e.f. 1.1.93 and for a direction to the respondent to promote her with consequential benefits.

2. We have heard learned counsel for the parties and have perused the pleadings and materials as also the relevant provisions of law in this regard.

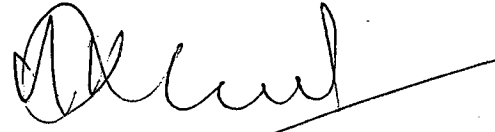
3. That the applicant was unauthorisedly absent for a period of 540 days and this period was treated as diesnon by Annexure A-1 order is not in dispute. Learned counsel of the applicant has not been able to produce any rule or instructions, or ruling of any court which says that the period of unauthorised absence treated as diesnon is to be treated as service for any purpose. The period which is treated as dies-non does not exist in the service of the person concerned. No benefit of service would be available to an employee for the period which is treated as dies-non. The disqualifications mentioned in FR 17(a) are only illustrative and not exhaustive. If the period of dies non cannot be counted for the purpose of eligibility for appearing in any qualifying examination, it cannot be considered as service for the purpose of BCRS promotion also. The fact that the break in service has been condoned does not make the period service but only saves the incumbent from the vice of the previous service being lost permanently. If the period of break is not condoned, the incumbent would forefeit his/her past service and ^{then} other disabilities which are enumerated in FR 17 would affect him/her. In any case, we are of the considered view that the applicant is not entitled to get the BCRS promotion with effect from 1.1.93, for, on that date, she has not completed 26 years of service.

3. Original Application fails and is dismissed,
leaving the parties to bear their costs.

Dated 24th September 1999.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

aa.

Annexures referred to in this order:

- A-1: True copy of the order No.Q-2700/II/52 dated
30.7.91 issued by the Divisional Manager (Admn.)
office of the respondent.
- A-3: True copy of the representation dated 19.10.96
submitted by the applicant to the respondent.