

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

OA 342/99

Wednesday the 31st day of March 1999.

CORAM

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN  
HON'BLE MR B.N.BAHADUR, ADMINISTRATIVE MEMBER

K.N.Sivasankaran Nair  
S/o T.N. Narayan Nair  
Assistant Accounts Officer (TRCC)  
Principal Manager, Telecom.  
R/o Karukappillil House,  
Cheruvattoor P.O.  
Kothamangalam.

...Applicant

(By advocate Mr M.R.Rajendran Nair)

Versus

1. The Chairman, Telecom Commission  
Sanchar Bhavan, New Delhi.
2. The Union of India represented by  
Secretary to Govt. of India  
Ministry of Communications  
New Delhi.
3. The Chief General Manager  
Telecom, Kerala Circle  
Trivandrum.

...Respondents.

(By advocate Mr Govind K. Bharathan, SCGSC)

The application having been heard on 31st March 1999,  
the Tribunal on the same day delivered the following:

O R D E R

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

The applicant who had passed the Junior Accounts Officer's Part-II Examination was by order dated 26.4.91 (Annexure A-2) promoted as Junior Accounts Officer and was allotted to Bombay circle. He made a representation for re-allotment to Kerala Circle. Finding that persons who had been promoted subsequently were later re-allotted to Kerala, the applicant reminded the authorities with further representations. Finding no response, the applicant approached this Tribunal earlier by filing OA 1666/92 seeking a re-allotment to Kerala circle. While the above application was pending, the first respondent communicated to the applicant in order dated 22.1.93, (Annexure A-7) by which pursuant to the orders dated 4.1.93 of Department of Telecommunication, New Delhi, the applicant was re-allotted

to Kerala circle. However, in that order, it was very specifically mentioned that the applicant would rank junior to all the JAOs promoted and posted in Department of Telecom, New Delhi Memo No.18-5/92-SEA dated 1.10.92. Accepting the above order in A-7, the applicant submitted before the Tribunal when the OA 1666/92 came up for hearing that the applicant was satisfied with the relief already granted to him by the respondents and that the applicant wished to withdraw the application. The application was thus withdrawn by order dated 3.3.93(Annexure A-9). Thereafter when the JAOs who were <sup>earlier</sup> junior to the applicant were promoted to the higher posts by order dated 10.12.96 (A-11) the applicant submitted a representation dated 4.7.97 for retrospective re-allotment to Kerala circle with effect from the date of his initial appointment as JAO. Finding no response, the applicant has filed this application for a declaration that he is entitled to be considered for promotion as Accounts Officer in his due turn reckoning his seniority on the basis of his pass in JAO Part-II Examination in 1991 by deeming that he is repatriated to Kerala circle in his due turn and to direct the respondents to consider his claim for seniority over and above persons who were successful in the JAO Part-II Examination and to fix the seniority accordingly.

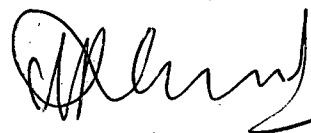
2. On a careful scrutiny of the application and the annexures and on hearing the learned counsel appearing for the applicant, we find that the applicant is clearly barred from seeking the reliefs which he has sought in the application. The applicant had on compassionate grounds sought and accepted the re-allotment to Kerala Circle given to him by order A-7 wherein he was clearly told that he would rank <sup>junior to</sup> all the JAOs promoted and posted in DoT Memo No.18-5/92 -SEA dated

1.10.92. The applicant did not seek to challenge that order but accepted that and joined the Kerala Circle. Not only that, the applicant had when the OA 1666/92 came up for hearing stated that he was satisfied with the relief already granted to him by A-7 order. After stating that he was satisfied with the re-allotment to Kerala Circle and after accepting the condition that he would rank junior to all the JAOs, it is not open for the applicant now to claim that he should be treated as senior to them on the basis of his pass in the JAOs Examination earlier. Further the applicant had put forth his claim of seniority in his representation dated 10.3.93. If the respondents did not give him a reply to the representation, he should have sought relief before the Tribunal within one year after expiry of the date of the representation. The applicant did not do that. In fact, there is nothing in this case which needs further deliberation. We, therefore, reject this application under Section 19 (3) of the Administrative Tribunals Act, 1985.

Dated 31st March 1999.



B.N. BAHADUR  
ADMINISTRATIVE MEMBER



A.V. HARIDASAN  
VICE CHAIRMAN

aa.

List of annexures referred to in the order:

- A-2, true copy of the promotion and posting order OM No.18-5-/91-SEA dtd. 26.4.91 issued by Asstt. Director General (SEA).
- A-7, true copy of the memo No.ST/EK-207/8/VII/5 dtd. 22.1.93 issued by the Asstt. General Manager, O/o the G.M., Telecom Dist. Ernakulam.
- A-9, true copy of the final order dtd. 3.3.93 in OA 1666/92.
- A-12, true copy of the representation dtd. 4.7.97 submitted to the first respondent by the applicant.