

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A.No.367/2000

Monday this the 16th day of July, 2001.

CORAM:

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

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

R.Jayalakshmi Ammal,
Chief Section Supervisor,
Office of the General Manager, Telecom,
Thiruvananthapuram. ..Applicant

(By Advocate Sri Vishnu S.Chempazhanthiyil)

vs.

1. General Manager, Telecom District,
Thiruvananthapuram-695 023.
2. Chief General Manager, Telecom,
Kerala Circle,
Thiruvananthapuram.
3. Director General,
Telecom Department,
New Delhi.
4. Union of India represented by its
Secretary, Ministry of Communications,
New Delhi. ... Respondents

(By Advocate Sri K.Kesavankutty)

The Application having been heard on 16.7.2001, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN: The applicant who is Chief Section Supervisor in the Office of the General Manager, Telecom, Thiruvananthapuram has filed this application impugning the order dated 22.3.2000 (A4) issued by the first respondent reverting her to Senior Section Supervisor Grade III retrospectively with effect from 1.7.1993 on the ground that her reversion to Grade III could not be protected by creating supernumerary post as per DOT letter No.22-6/94/TE II (Vol III) dated 30.12.99 (A8) which order also has been challenged. It

is alleged in the application that the applicant who was recruited as Time Scale Clerk, re-designated as Telecom Office Assistant on 19.7.1962 was promoted as Section Supervisor with effect from 1.6.1974 that she was granted BCR Grade on completion of 26 years of service with effect from 30.11.1990 and that the applicant was given promotion to Grade IV by order dated 29.8.1994 with effect from 1.7.1993 and that without any justification and without issuing any notice and affording any opportunity, the impugned order has been issued reverting the applicant to Grade III with retrospective effect. The order (A8) on the basis of which A-4 order has been issued has been challenged by this application as unreasonable, and not sustainable in law.

2. The respondents in their reply statement seek to justify the action on the ground that by order dated 13.12.95, the seniority in the basic grade is to be the criteria for promotion from Grade III to Grade IV and that on a review of the promotions from Grade III to Grade IV on the basis of the said order and in accordance with the directions contained in the order at A8 dated 31.12.99, the applicant has been reverted to Grade III retrospectively, protecting her pay and allowances. The respondents contend that the above action cannot be faulted.

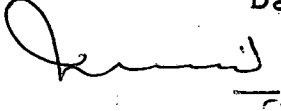
3. We have heard the learned counsel of the respondents and have perused the materials placed on record. That the applicant was promoted from Grade III to Grade IV according to the then existing procedure by order dated 29.8.1994 (A2) is

not in dispute. Even if there has been a change in the procedure of reckoning the seniority as per the Ministry's O.M. dated 13.12.95 the respondents did not take any steps to cancel the promotion of the applicant by A-2 order in accordance with law. After having allowed the applicant to work in the promoted post for six years, the impugned order has been issued on 22.3.2000 without issuing a show-cause notice and without giving the applicant an opportunity to put forth her case, as to why she should not be reverted. The reversion from a higher post to a lower post undoubtedly reduces the status of the official and therefore visits the official with adverse civil consequences. It has been held in a catena of rulings of the Apex Court that any order which visits one with adverse civil consequences should not be passed without giving an opportunity of being heard. On that score alone, the impugned order is liable to be set aside. It is also conceded by the counsel of the respondents that the order No.22-6/94/TE-II(Vol.III) dated 30.12.99 at A-8 has been set aside by the Principal Bench of the Central Administrative Tribunal in O.A.429/2000 though he stated that there is a Writ Petition filed before the High Court, Delhi challenging the order of the Tribunal. Since the order at A-8 has been set aside by the Principal Bench, the impugned order A-4 filed on the basis of A-8 cannot stand. Even otherwise, the impugned order A-4 should be set aside for violation of the principles of natural justice as no show cause notice has been issued to the applicant.

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3. In the light of what is stated above, the application is allowed. The impugned orders are set aside without any order as to costs.

Dated : 16.7.2001.


(T.N.T.NAYAR)
ADMINISTRATIVE MEMBER


(A.V.HARIDASAN)
VICE CHAIRMAN

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List of Annexures referred to in the order:

- A-2: True copy of the Memo No.ST/BCR/Genl/20 dated 29.8.1994 issued by the first respondent.
- A-4: True copy of order No.ST/BCR/103/99/7 dated 22.3.2000 issued by the first respondent.
- A-8: True copy of letter No.22-6/94-TE-II (Vol.III) dated 30.12.1999 sent by ADG (TE), Dept. of Telecom Services, Sanchar Bhavan, New Delhi.