

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 4 OF 2008

Wednesday, this the 22nd day of July, 2009.

CORAM:

**HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

Lala Ram
Junior Telecom Officer (MIS)
Office of GMTD, BSNL, Kannur
Residing at Qr.No.11,
BSNL, Staff Quarters,
Elayavoor, Kannur

... **Applicant**

(By Advocate Mr. K.A.Abraham)

versus

1. Union of India represented by its Secretary
to Government of India
Ministry of Communication and IT
Department of Telecommunications
Sanchar Bhavan, Ashoka Road
New Delhi
2. Member (Services)
Department of Telecommunications and IT
Sanchar Bhavan, Asoka Road
New Delhi
3. The Executive Director through the Chief Managing Director
Maha Telephone Nigam Limited
Jeevan Bharathi Building,
Parliament Street
New Delhi
4. The General Manager
Telecom District
BSNL, Kannur
... **Respondents**

(By Advocate Mr.N.Nagaresh (R1,2&4)
Advocate TPM Ibrahim Khan, SCGSC (R-3))

 The application having been heard on 22.07.2009, the Tribunal
on the same day delivered the following:

ORDER

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

In this OA, the grievance of the applicant is that, despite order dated 13.10.2006 in OA 624/05, whereby directions were given to the respondents for regularization of the period of suspension as well as for following the procedure as outlined in O.M dated 14.09.2002 regarding review for promotion, vide Annexure A-3 impugned order, the same has not been done.

2. After pleadings were complete, at the time of hearing, counsel for applicant submitted that in so far as regularization of the period of absence during suspension, the respondents themselves having made it clear that their decision to treat the period of suspension as non-duty will be subject to further orders that may be passed under Rule 54 B (6), no further order is required. The counsel further submitted that as regards periodical review, a direction may be given to the respondents to diligently adhere to the time schedule provided in order dated 14.09.1992. The said O.M stipulates as under :-

"Six-monthly Review of sealed cover cases

17.7.1 It is necessary to ensure that the disciplinary case / criminal prosecution instituted against any Government servant is not unduly prolonged and all efforts to finalize expeditiously the proceedings should be taken so that the need for keeping the case of a Government servant in a sealed cover is limited to the barest minimum. It has, therefore been decided that the Appointing Authorities concerned should review comprehensively the cases of a Government servant whose suitability for promotion to a higher grade has been kept in a sealed cover on the expiry of six-months from the date of convening the first DPC which had adjudged his suitability and kept its findings

in the sealed cover. Such a review should be done subsequently also every six-months. The review should, inter alia, cover the progress made in the disciplinary proceedings/criminal prosecution and the further measures to be taken to expedite their completion.

" Procedure for ad hoc promotion

17.8.1 In spite of the six-monthly review referred to in Para. 17.7.1 above, there may be some cases where the disciplinary case / criminal prosecution against Government servant are not concluded even after the expiry of two years from the date of the meeting of the first DPC, which kept its findings in respect of the Government servant in a sealed cover. In such a situation, the Appointing Authority may review the case of the Government servant, provided he is not under suspension, to consider the desirability of giving him ad hoc promotion keeping in view the following aspects:-

- (a) Whether the promotion of the officer will be against public interest;
- (b) Whether the charges are grave enough to warrant continued denial of promotion;
- (c) Whether there is no likelihood of the case coming to a conclusion in the near future;
- (d) Whether the delay in the finalization of proceedings, departmental or in a Court of Law, is not directly or indirectly attributable to the Government servant concerned; and
- (e) Whether there is any likelihood of misuse of official position which the Government servant may occupy after ad-hoc promotion, which may adversely affect the conduct of the departmental case / criminal prosecution.

The Appointing Authority should also consult the Central Bureau of Investigation and take their views into account where the departmental proceedings or criminal prosecution arose out of the investigations conducted by the Bureau."

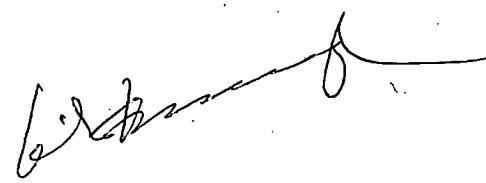
3. In view of the above, the respondents shall strictly adhere to the time schedule calendered in the aforesaid O.M. in regard to review of the case of the applicant for promotion. The decision as and when arrived at

periodically shall also be communicated to the applicant within a reasonable time thereafter. OA is disposed of. No costs.

Dated, the 22nd July, 2009.



K.GEORGE JOSEPH
ADMINISTRATIVE MEMBER



Dr.K.B.S.RAJAN
JUDICIAL MEMBER

vs