

**Central Administrative Tribunal, Lucknow Bench,
Lucknow**

Original Application No. 405/2010

This the 7th day of October, 2010

**Hon'ble Mr. Justice Alok Kumar Singh, Member-J
Hon'ble Mr. S.P. Singh, Member-A**

Ram Shanker Sharma, Aged about 60 years, S/o late Sri Hazari Lal, R/o Village Uchitpur, Post Sohawal, (RS), District Faizabad

.....Applicants

By Advocate: Sri Manik Sinha & Sri R. Mishra

Versus

1. Bharat Sanchar Nigam Limited through its Managing Director, New Delhi.
2. The General Manager Telecom District Faizabad.
3. Divisional Engineer Telecom (Long Distance), Lucknow.
4. Sub-Divisional Engineer, OFC, Faizabad.

.....Respondents

By Advocate : Sri G.S. Sikarwar

ORDER

By S.P. Singh, Member-A

The applicant has come to this Tribunal seeking following relief(s):-

- (i) *"That the Hon'ble Tribunal may kindly be pleased to direct the Opposite parties to allow the promotion of applicant under BCR Scheme from the date on which the promotion was due i.e. 7.2.1997.*
- (ii) *That the Hon'ble Tribunal may kindly be pleased to direct the Opposite parties pay arrears of pay in the higher pay scale w.e.f. 7.2.1997 to 30.6.2003*

13/12

and to allow the monetary benefits to the applicant from the date on which the promotion was due.

- (iii) *That the Hon'ble Tribunal may kindly be pleased to direct the Opposite parties to pay with interest and other dues which are payable to the applicant.*
- (iv) *That such any other relief which this Hon'ble Tribunal deem just fit and proper and under the circumstances of the case may also be passed in favour of the applicant."*

2. The applicant was initially appointed as Time Scale Clerk on 7.2.1971 under Divisional Engineer, Telecom, Bareilly in the Department of Telecommunication, Government of India (DOT). After creation of Bharat Sanchar Nigam Limited (BSNL) in October, 2000 his services were transferred from DOT to BSNL. He has instituted this O.A. against the order of BSNL dated 1.7.2003 giving him BCR promotion.

3. The learned counsel for the applicant reiterated the grounds given in his application seeking relief(s) as above.

4. It is submitted by the learned counsel for the respondents that the applicant has challenged the order of BSNL dated 1.7.2003 giving him BCR promotion and as such the application is, therefore, hopelessly time barred for which no application for condonation of delay has been filed as required under Section 21 of A.T. Act, 1985.

5. In this regard the following preposition of law has been laid down by the Apex Court in ***Ramesh Chand Sharma Vs. Udhamp Singh Kamal & Others reported in 2000 SCC (L&S) 53.***

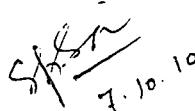
412

"On a perusal of materials on record and after hearing counsel for the parties, we are of the opinion that the explanation sought to be given before us cannot be entertained as no foundation thereof was laid before the Tribunal. It was open to the first respondent to make proper application under Section 21(3) of the Act for condonation of delay and having not done so, he cannot be permitted to take up such contention at this late stage. In our opinion, the O.A. filed before the Tribunal after the expiry of three years could not have been admitted and disposed of on merits in view of the statutory provision contained in Section 21(1) of the Administrative Tribunals Act. The law in this behalf is now settled (See Secy to Government of India. Vs. Shivram Mahadu Gaikwad)"

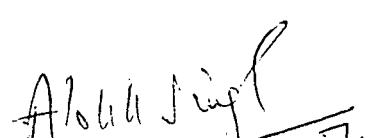
6. In O.A., in hand, promotion has been sought w.e.f. 7.2.1997 whereas this Application has been filed on 24.9.2010 i.e. after an inordinate delay of about 13 years without any plausible explanation whatsoever. With a view to bring the Application within the ambit of prescribed limitation, the applicant has prepared certain representations dated 1.12.2009, 23.4.2010, 9.6.2010 and 28.6.2010 addressed to the Opposite parties as mentioned in para 6 of his Application. It goes without saying that this, he has done on account of his wishful thinking to bring the matter to justify the filing of this Application in September, 2010. But, firstly even these representations are said to have been given from the month of December, 2009 and there is no explanation at all as to why no remedies were taken from February, 1997 till December, 2009 for about 12 years. Secondly, the provisions contained in Section 21 of A.T. Act, 1985 cannot be given a complete go-bye by moving few representations within a year just before filing this Application and that too without giving any proper explanation for an inordinate delay of about 12-13 years.

7. In view of the above, the O.A. is liable to be dismissed.

8. The O.A. is, therefore, dismissed being time barred. No order as to costs.


1.10.10
(S.P. Singh)
Member-A

Girish/-


7.10.10
(Justice Alok K Singh)
Member-J