

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

18

Tr.5/88

Ashok Chandra .. Applicant

vs.

Union of India
through
Ministry of Communication,
New Delhi.

The Wireless Adviser,
Wireless Planning and
Co-ordination Wing,
Sardar Patel Bhavan,
Ministry of Communication,
New Delhi.

Shri K.P.Radhakrishnan

Shri B.B.Bhatia

Shri V.R.Rao

Shri P.N.Chakraborty .. Respondents

Coram: Hon'ble Shri Justice U.C.Srivastava, Vice-Chairman
Hon'ble Shri M.Y.Priolkar, Member(A)

Appearances:

1. Mr.V.V.Deshmukh
Advocate for the
Applicant.
2. Mr.P.M.Pradhan
Advocate for the
Respondents.

ORAL JUDGMENT:
(Per U.C.Srivastava, Vice-Chairman)

Date: 1-5-1991

The applicant, who was subsequently regularised as Engineer Incharge in the year 1987 and not in the year 1985, has approached this Tribunal praying that the opposite parties may be directed to regularise him in the grade of Engineer Incharge in the Monitoring Organisation in the Ministry of Communication on substantive and permanent basis by considering his case along with other eligible candidates and directing the opposite parties not to interfere

with the functioning as Engineer Incharge. This relief was prayed by him in the year 1985. Subsequently when he was regularised in the year 1987 he amended the plea and now he is claiming the amended application. By means of amendment application he amended the relief and prayed that the respondent No.3 be directed to declare the seniority position of the applicant in the post of Engineer Incharge with particular reference to the order dtd. 15-10-1987 and the respondents be directed to properly consider and appoint him for regular promotion in the grade of Engineer Incharge with effect from 4-4-1985 by retaining the claim of seniority over respondents No.5 and 6 who are junior to him.

2. The applicant though highly qualified and apparently educationally much ~~higher~~ more qualified than the respondents No.5 & 6 was appointed as Engineer on the basis of competitive examination with effect from 7-12-1977 in a temporary capacity. He was appointed as Engineer Incharge on 25-5-1983. Though initially it was not mentioned that it was on ad hoc basis it appears that the said appointment was extended from time to time. The post of Engineer Incharge is filled by promotion by selection from among the Engineers with five years regular service in the grade. In the year 1985 the applicant was also considered but his name was not included in the panel for regular promotion to the grade of Engineer Incharge.

From the record it has been found that the persons who were empanelled were given the assessment of "Very Good" by the DPC while the applicant's assessment was "GOOD". The applicant represented against the same and the matter went on but he is continued to hold the said post on ad hoc basis though extended from time to time and ultimately he was also regularised in the year 1987. Thus the relief claimed by the applicant is that for the purpose of seniority he may be placed above those persons who were regularised in the year 1985.

3. We would have accepted the contention of the applicant but from the record it is found that the earlier appointment of the applicant could not be said to be in accordance with the rule as though he along with two other persons were appointed as Engineer Incharge the said appointment was not in accordance with the rules which requires consideration by the DPC. All the eligible candidates were not ~~considered~~ entrusted and it appears that though the applicant was first appointed he was not fully equipped in accordance with the rules. The case of the applicant having been considered by the DPC, a competent body which had empanelled him at that time, of course the Tribunal cannot sit in judgment over what has ^{been} done by the DPC in the year 1985, ~~howsoever the applicant may~~

In view of the fact that the selection and non empanelment of the applicant in the year 1985 cannot be questioned or the Tribunal cannot sit in the judgment over the same, the applicant's claim for seniority with effect from 1985 when his juniors were so regularised or promoted has to be rejected.

4. Accordingly the application is dismissed but there will be no order as to costs.


(M.Y. PRIOLKAR)
Member(A)


(U.C. SRIVASTAVA)
Vice-Chairman