

(9)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
 NEW BOMBAY BENCH, NEW BOMBAY,
XXX XXX XXX XXX
CAMP AT PANAJIR,

O.A. No. 207/89 198
TAXX

12.7.1990
 DATE OF DECISION

Shri R.Y. Chougule Petitioner

Shri M.R. Achar Advocate for the Petitioner(s)

Versus

The Chief General Manager, Maharashtra Telecom Circle, B'bay,
 and others. Respondent

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. G. Sreedharan Nair, Vice-Chairman,

The Hon'ble Mr. M.Y. Priolkar, Member (A).

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal? No

(18)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
NEW BOMBAY BENCH, NEW BOMBAY,
CAMP AT PANAJI.

Original Application No.207/89.

Shri R.Y.Chougule.

... Applicant.

V/s.

The Chief General Manager,
Maharashtra Telecom Circle
and another.

... Respondents.

Coram: Hon'ble Vice-Chairman, Shri G.Sreedharan Nair,
Hon'ble Member(A), Shri M.Y.Priolkar.

Appearances:-

Shri M.R.Achar, Counsel
for the applicant and
Shri G.U.Bhobe, Counsel
for the respondents.

JUDGMENT:-

(Per Shri M.Y.Priolkar, Member(A)) Dated: 12.7.1990

The grievance of the applicant, who is a Junior Telecom Officer of the Department of Telecommunications, is that although his name was included in the eligibility list notified by the General Manager, Telecommunications, Maharashtra Circle, Bombay, on 13.5.1988 for promotion to higher post of T.E.S. Group-B, he was not considered for promotion but some of his juniors have been promoted. In their written reply, the official respondents have stated that the promotion orders of the juniors were issued on 30.9.1988 on the recommendations of a duly constituted D.P.C. which had met in September, 1988. They have also stated that this D.P.C. had also considered the applicant's case for promotion but the DPC's recommendation relating to the applicant has been kept in a sealed cover due to a vigilance case pending against him. The applicant is stated to have been subsequently charge sheeted on 17.4.1989 and the disciplinary case is still pending final disposal.

...2.

2. The only issue that arises for determination in this case is whether the Department was justified in following the sealed cover procedure even before the issue of the charge sheet. This question has been decided in a Full Bench Judgment dated 2.3.1987 of this Tribunal in which it has been held that the sealed cover procedure can be resorted to only after a charge memo has been served on the concerned official or the charge sheet is filed before the criminal Court and not before (K.Ch.Venkata Reddy & Ors. V. Union of India & Ors. reported at p 158 of Full Bench Judgments of CAT-1986-1989- published by Bahri Brothers, Delhi).

3. Admittedly, the charge memo was issued to the applicant only on 17.4.1989 whereas the DPC had considered the applicant's case for promotion in September, 1988. The decision of the Department to follow the sealed cover procedure in his case is bad in law in terms of the Full Bench decision referred to above and is, thus, liable to be set aside.

4. We direct, accordingly, that the sealed cover should be opened and the applicant promoted in the first available vacancy if the sealed cover contains DPC's recommendation that he is suitable for promotion. On such promotion, the seniority of the applicant should be fixed in accordance with his position in the select list. The promotion will be with effect from the date the official immediately below him has been promoted and the applicant will be entitled to all monetary and other benefits from that date.

5. This application is disposed of, as above, with no order as to costs. Miscellaneous Petitions Nos. 429/90 and 430/90 filed by the applicant on 14.6.1990 praying for certain interim directions, are also treated as disposed of, in view of this final order.

M.Y. Priolkar 12-7-80
(M.Y. PRIOLKAR)
MEMBER (A)

G.Sreedharan Nair 12-7-90
(G.SREEDHARAN NAIR)
VICE-CHAIRMAN