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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No.137/89

Shri V.N.Sharma .. Applicant

vs

Union of India  
through Secretary,  
Ministry of Communications,  
Sanchar Bhavan,  
New Delhi & 2 others. .. Respondents.

Coram: Hon'ble Mr. P.S.Chaudhuri, Member(A)

Hon'ble Mr. T.C.Reddy, Member(J)

Appearances:

Shri G.D.Samant  
Advocate for the applicant

Shri N.K.Srinivasan  
Advocate for the respondents.

Dated: 5-9-1991

Judgement

(Per : Mr. P.S.Chaudhuri, Member(A))

This application under section 19 of the Administrative Tribunal's Act, 1985 was filed on 7-2-1989. In it the applicants are challenging the action of the respondents to hold <sup>an</sup> ~~the~~ interaction <sup>with</sup> ~~that~~ the Selection Committee <sup>for</sup> ~~have~~ promotion~~s~~ as Chief General Manager.

2. We may state the relevant facts briefly.

By letter dated 19-3-1986 the Government decided to set up a wholly Govt.owned Public Sector Corporation to be known as the Videsh Sanchar Nigam Ltd. (VSN) to operate from 1st April,1986 the international telecommunication services of the country. The company <sup>a</sup> ~~will~~ <sup>was to</sup> have its registered office at Bombay.

3. Since it would take sometime for the new Corporation to finalise the terms and conditions for its employees and give opportunity to all of them to exercise options, it was also decided that as an interim arrangement with effect from 1-4-1986 ~~the~~

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employees sanctioned for and working in the OCS as on 31-3-1986 will be deemed to have been transferred to the Corporation on the existing terms and conditions. They will be treated as on deputation on foreign service to the Corporation without deputation allowance. It was further decided that after the V.S.N. starts its operations, the employees now working in the OCS and transferred on deputation on foreign service terms to the Corporation, will continue to be governed by the existing rules, regulations and pay scales, etc. (as applicable to Govt. servants) till such time they are absorbed finally by the Corporation on the basis of options and sever all connections with Government.

4. By letter dated 14-9-1987 Videsh Sanchar Nigam Ltd. changed the designation of some posts from 8-9-1987. Two of the posts of which <sup>the</sup> designations were <sup>so</sup> changed were the posts of Additional Director General and Dy. Director General which posts were redesignated as Chief General Manager and ~~the~~ General Manager respectively. By the impugned letter dated 3-1-1989 Videsh Sanchar Nigam Ltd. called individual candidates from the cadre of General Managers for interaction <sup>with</sup> ~~that~~ the Selection Committee for promotion as Chief General Manager. Thereafter, by order dated 14-2-1989 Videsh Sanchar Nigam Ltd. appointed the 4th respondent as Chief General Manager <sup>on a purely ad-hoc/temporary basis</sup> (T.O.) with effect from 14-2-1989. By order dated 10-7-1989 Videsh Sanchar Nigam Ltd. <sup>appointed</sup> one Smt. Lakshmi G. Menon ~~(T.O.)~~ as Chief General Manager <sup>on a purely ad-hoc/temporary basis</sup> (T.P.) with effect from the date she assumes charge. The applicants had also sought to implead Smt. Menon but on submission by the respondents' counsel that she <sup>has</sup> left the organisation and joined some other organisation, the applicants' request was disposed of as not surviving.

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5. By order dated 3-5-1990 the Government ~~conveyed the~~ <sup>acceptance of</sup> the technical ~~resignations tendered~~ by 130 Group 'A' Officers of erstwhile OCS by the competent authority with effect from 2-1-1990 so as to enable the Videsh Sanchar Nigam Ltd to absorb them in the Company with effect from the same date. The persons whose resignations were so accepted/ who have <sup>been</sup> ~~so~~ absorbed included the second applicant and the 4th respondent. By order dated 20-7-1990 Videsh Sanchar Nigam Ltd. informed the promotion of 3 persons as Chief General Manager with effect from 20-7-1990 in order of seniority. The second applicant ranks as No.2 and 4th respondent ranks as No.3 in the said order.

6. In the meantime, being aggrieved by the proposed inter-~~action~~ to be held on 16-1-1989, the applicant had already filed this application on 7-2-1989. The respondents have opposed <sup>the</sup> application by filing their written statement. We have heard Mr. G.D.Samant, learned counsel for the applicant and Mr. N.K.Srinivasan, learned counsel for the respondents.

P. By way of preliminary objections Mr. Srinivasan submitted that as all the impugned orders ~~had~~ had been issued by ~~the~~ Videsh Sanchar Nigam Ltd, a Corporation wholly owned by the Government in respect of whom ~~no~~ notification had ~~yet been~~ issued by the Central Government in terms of Section 14(2) of the Administrative Tribunal, Act, 1985 so as to bring it within the jurisdiction of the Tribunal, the Tribunal had no jurisdiction in the matter. This objection is well founded. There is no doubt that with effect from 2-1-1990 the parties to this dispute no longer come within our jurisdiction as they

cease to be persons appointed to a civil post under the Union and instead become ~~the~~ employees of a Corporation wholly owned by the Government in respect of which no notification has yet been issued by the Central Government giving the Tribunal jurisdiction in respect of the employees of the said Corporation. All that remains therefore, is to see whether we have jurisdiction in respect of actions prior to 2-1-1990.

8. To get an answer to this question we have to look at Sub Section (1) of Section 14 of the Administrative Tribunals Act, 1985. This Section reads as under:-

"14. Jurisdiction, powers and authority of the Central Administrative Tribunal (1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court) in relation to -

- (a) recruitment, and matters concerning recruitment, to any All-India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian;
- (b) all service matters concerning-
  - (i) a member of any All-India Service; or
  - (ii) a person [not being a member of an All-India service or a person referred to in clause (c)] appointed to any civil service of the Union or any civil post under the Union; or
  - (iii) a civilian [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any defence services or a post connected with defence,

and pertaining to the service of such member, person or civilian in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government

of India or of any corporation (or society) owned or controlled by the Government;

- (c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation (or society) or other body, at the disposal of the Central Government for such appointment.

(Explanation- For the removal of doubts, it is hereby declared that references to "Union" in this sub-section shall be construed as including references also to a Union territory)).

AD plain reading of this sub-section makes it clear that the Tribunal shall exercise jurisdiction in relation to all service matters concerning a person appointed to any civil post under the Union and pertaining to the service of such a person in connection with the affairs of any corporation owned by the Government. There is no dispute that the parties to the dispute were appointed to civil posts under the Union and were not employees of Videsh Sanchar Nigam Ltd on 3-1-1989. They only become employees of Videsh Sanchar Nigam Ltd with effect from 2-1-1990. It is also not disputed that Videsh Sanchar Nigam Ltd is <sup>a corporation</sup> wholly owned by the Government. Against this background we have no hesitation in holding that we have jurisdiction in respect of the dispute between the parties, the cause of action in respect of which arose on 3-1-1989.

9. This cause of action <sup>arises from the answer to the question</sup> whether it was open to the authorities concerned to make promotions other than in accordance with the service rules applicable to the parties prior to their absorption by Videsh Sanchar Nigam Ltd. It is quite clear from the letter dated 19-3-1986 that <sup>any</sup> such promotions can only be made in accordance with the rules and regulations applicable to the parties as Government servants.

Mr. Samant mentioned that this view had also been taken in D. Damodaran and 13 Ors. v Union of India and 28 Ors., O.A. 391/88 decided by the Madras Bench on 22-11-1988. Against this background, we have no hesitation in holding that the selection held in pursuance of the letter dated 3-1-1989 was not in accordance with the rules and so is illegal and deserves to be quashed. We accordingly quash it and set it aside.

10. Mr. Samant then contended that the applicants' grievances would be solved by protecting the pay of the senior persons in the order dated 20-7-1990 so that their present salary was refixed so that it was not lower than those who are immediately below them. He cited Paluru Ramkrishniah & Ors v Union of India and another etc. etc., AIR 1990 SC 166, in support of this condition. But that is ~~a~~ matter for <sup>the</sup> respondents to decide as we have already held that we have no jurisdiction in the matter after 2-1-1990.

11. The application is disposed of accordingly with no order as to costs.

T. C. Reddy  
(T.C.Reddy)  
Member(J)

P. S. Chaudhuri  
(P.S.Chaudhuri)  
Member (A)

5-9-1991