

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

R.P.NO:73 of 1996 in O.A.135/96

Ram Chandra Rai,  
Deputy General Manager,  
(Mazagaon), Staff No.08141,  
Mazagaon Telephone Exchange,  
MTNL, Mumbai.

.. Review Petitioner

v/s.

1. Union of India,  
Secretary,  
Department of Telecommuni-  
cations & Chairman  
Telecom Commission,  
Sanchar Bhavan,  
20, Ashoka Road,  
New Delhi - 110 001.
2. The Advisor - Operations  
Department of Telecommuni-  
cations, Sanchar Bhavan,  
New Delhi - 110 001.
3. Chief General Manager,  
Mahanagar Telephone Nigam Ltd.,  
Telephone House,  
Veer Savarkar Marg,  
Dadar,  
Mumbai - 400 028.

.. Respondents

Coram; Hon'ble Shri B.S.Hegde, Member(J)  
Hon'ble Shri M.R.Kolhatkar, Member(A)

Tribunal's order on Review Petition  
by circulation  
(Per M.R.Kolhatkar, Member(A))

Date: 17-7-96.

This is a Review Petition by the original applicant seeking review of our order dt. 26-4-1996 <sup>by which</sup> the interim relief granted in favour of the applicant on an earlier date (9-2-96) was vacated and the O.A. was directed to be placed on the sine-die list after being admitted. The review petitioner has taken several grounds for review of our order dt. 26-4-1996. It is contended that the order dt. 26-4-96 mentions that DPC for preparing a list of adhoc promotees to the JAG Grade met on 14-2-1996 whereas it met on 31-1-1996. Secondly it is contended that the law is settled

by the Supreme Court's decision in Gurdial Singh Fijji's case and Brijmohan's case that the adverse remarks ought not to have been taken into account by the DPC which however took them into account and there <sup>was</sup> nothing for the Tribunal to investigate and decide at the final hearing in this respect and permit illegal adhoc select list to harm the Review Petitioner. It is stated that the label given for the select list is "adhoc" select list but the promotion order is issued by the President of India which makes it clear that the select list is regular for all intents and purposes. It is contended that for the year 1991-92 the assessment is stated to be average/adverse but it is reliably learnt that the reply is wrong and the assessment for the year 1991-92 is not average/adverse. It is contended that on this basis the assessment can be Good if not Very Good which is the Bench Mark for the selection on regular basis. It is stated that the Tribunal has taken upon itself the burden of determining the assessment instead of leaving it to the review DPC. The Tribunal cannot speculate and ought not to have speculated. It is contended that the Tribunal failed to notice that for inclusion in the list for adhoc promotion, five years ACRs and the gradings therein ought to have been looked into by the DPC and the point is settled by Tandel's judgment. The representations against the adverse remarks were disposed of by Advisor(HRD) who was not the competent authority and the competent authority was Advisor(Operation). Since the representation against adverse remarks were not disposed of within three months they

*M* became non-operative. Lastly it is contended that

the Tribunal has mixed up the promotion that would be granted according to the order of the DOT dt. 14-2-1996 with the local officiating promotion that can be ordered by the Head of the Circle and since the Review Petitioner is one of the seniormost officers entitled to the local officiating promotion unless there is no post left to accommodate the Review Petitioner after accommodating the officers on the adhoc promotion list.

2. We have considered the contentions of the Review Petitioner and we do not see any error apparent on the face of the record in our order except ~~the~~ the reference to the date of DPC having met on 14-2-1996 whereas it actually met on 31-1-96. This change of date does not affect the reasoning of our order. The rest of the grounds urged for review are arguments some of which were advanced before us earlier or they are in the nature of speculation with which the petitioner has taxed the Tribunal. As a matter of fact we were concerned to see whether the balance of convenience lay in continuing interim relief or whether in ~~fact~~ favour of allowing adhoc panel of Gr. 'A' officers issued by the President to have its effect. On applicant's own submission, ~~xxx~~, the panel, though adhoc, the promotions issued by the President makes it clear that the selection list is permanent and to that extent the reliance placed by the applicant on Tandel's case become untenable. All in all we are of the view that no grounds have been made out in terms of Order 47 of the CPC requiring us to review our order dt. 26-4-1996.

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3. There are, however, two points in regard to which our order needs correction and clarification. The correction is in respect of the date of the DPC vide para-6 where in line 11 reading from the top, date of DPC should read as 31-1-96 instead of 14-2-1996. Our order should therefore be read as corrected. Secondly we had stated in para 7 of the order that "The applicant would automatically stand reverted from 1-5-96 since his name does not figure in the orders of the DOT dt. 14-2-96." We wish to clarify that the vacation of the interim relief and in particular the reference to the reversion should not be construed to prevent the department from considering the applicant for local officiating promotion if any post is left after accommodating other officers from the adhoc promotion list and the departmental authorities so decide as per rules. The Review Petition is therefore dismissed subject to above correction/clarification. The R.P. is being decided by circulation as provided in the Rules.

4. Copy of the order may be given to both the parties.

✓ E/C  
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M.R. Kolhatkar  
(M.R. KOLHATKAR)  
Member(A)

B.S. Hegde  
(B.S. HEGDE)  
Member(J)

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21/12/96  
order/Judgment despatched  
to App<sup>n</sup> (s)  
on 2/8/96  
2/8/96