

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 243/96

Date of Decision : 19.4.2001

M.Rajratnam _____ Applicant

Shri D.V.Gangal _____ Advocate for the
Applicant.

VERSUS

Union of India & Ors. _____ Respondents

Shri V.S.Masurkar _____ Advocate for the
Respondents

CORAM :

The Hon'ble Shri B.N.Bahadur, Member (A)

The Hon'ble Shri S. L. Jain, Member (J)

- (i) To be referred to the reporter or not ?
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ?
- (iii) Library

B.N.BAHADUR
MEMBER (A)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.243/96

Thursday this the 19th day of April, 2001.

CORAM: Hon'ble Shri B.N.Bahadur, Member (A)

Hon'ble Shri S.L.Jain, Member (J)

M.Rajratnam,
Divisional Engineer,
Mahanagar Telephone Nigam Ltd.,
Waudby Road, Bombay.

...Applicant

By Advocate Shri D.V.Gangal

V/S.

1. Union of India through
the Secretary,
Ministry of Communication,
Department of Communication,
Sanchar Bhavan, New Delhi.

2. The Chief General Manager,
M.T.N.L., Telephone House,
Prabhadevi, Dadar, Bombay.

3. The Union Public Service
Commission, Dholpur House,
New Delhi.

...Respondents

By Advocate Shri V.S.Masurkar

O R D E R (ORAL)

{Per : Shri B.N.Bahadur, Member (A)}

This is an application made by Shri M.Rajratnam seeking the relief from this Tribunal to call for records and after examining the same hold the order dated 29.5.1995 (Page 20) to be illegal and quash the same. Consequential reliefs in terms of



confirmation of the applicant in Group 'A' post from 1981 and others as out-lined in para 8 of the OA. are also sought. The case made out by the applicant in his written pleadings, and through the arguments made on his behalf by his learned counsel, is as follows : In fact, the case starts from the findings and orders in an earlier OA. which was decided by this Tribunal in OA.No.791/89 on 16.11.1994 (a copy of this order is at page 21 of the paper-book). We have to now proceed beyond this stage. The order in that OA. was by way of a directions to the respondents "to convene a review D.P.C. for promotion in 1981 at the earliest or on such an earlier date according to rules, when the applicant became eligible and came in the zone of consideration for promotion." It was also directed that if the review DPC is so held and holds the applicant fit for promotion, the respondents are directed to give proforma promotion to the applicant from that date and give all consequential benefits to the applicant on proforma basis.

2. The respondents in the case have filed a written statement, Arguments were made on the basis of written statement etc. It was also argued that merits of defence of Respondents may be determined from the records of the DPC and original C.Rs. which were tendered before us by the learned counsel for the respondents. We have seen this record carefully.

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3. Learned counsel Shri Gangal who argued the case on behalf of the applicant made three points, which are recorded below in gist. At the outset, Shri Gangal stated it was indeed true that the matter need to be judged on the basis of records produced. He has submitted to the Tribunal (a) if the adverse remarks pertaining to the period 1978 (as referred to in the DA. decided in 1994) have been expunged. (b) Whether the C.R. rating has been modified has any result of this and (c) He also made a point that it should be checked up whether the DPC had indeed specifically recorded that the adverse entry of 1978 had been disregarded while considering the applicant for promotion.

4. We have straightaway gone to the papers produced before us, namely, copy of the Minutes of the DPC held on 5.4.1995 in the office of the UPSC, New Delhi. The DPC was presided over by the Member, UPSC and two others. At the outset, the Committee noted that it was informed of the background of this case and have recorded details regarding background of the case in a full paragraph. Thereafter, the Committee has recorded the facts of the order of the CAT in DA.NO.791/99. Thereafter, in the same DPC minutes, the Committee records as follows :-

"2. Accordingly, the review DPC reassessed the suitability of Sh.Rajaratnam for the year 1981,1984 placing his name in the eligibility list between Sh.RS Madan at S.No.135 and Sh.ST Srinivasan at S.No.136 and for the vacancies of 1986 by placing his name in the eligibility list between Sh.Rameshwar Saha at S.No.26 and Sh.RR Jembekar at S.No.27."

BS

Subsequently, in the later para, the Committee has come to the conclusion that after assessing the ACRs. of previous 5 years in respect of fitness for the years 1981, 1984 and 1986, the Committee has found the applicant unfit for each occasions.

5. Now, in regard to the point made by learned counsel Shri Gangal about lack of specific entry about the record we do not have any doubt that the committee has taken cognizance of the earlier order of the Tribunal and had recorded in the DPC minutes in this background the committee says that review was carried out accordingly.

6. We then carefully went through the CRs of the applicant from the original file produced before us. We have gone through the CRs. from the years 1976-77 upto for about 10 years thereafter. While we need not discuss or describe the entries in the CRs., we are convinced that there is absolutely no doubt of the justification of the applicant being declared unfit. The CRs. of the applicant for many of the years are 'Average' or below 'Average'. These have been communicated also from time to time. We do not wish to dilate. In fact, we may add that on the point of the C.R. of 1978, that even if this was totally ignored there would be no case for considering the applicant for promotion. No injustice has been caused to him.

7. In the circumstances above, we do not find any ground for our interference in the matter. The OA. is therefore dismissed, with no order as to costs.

S.L.JAIN
(S.L.JAIN)

MEMBER (J)
mrj.

B.N.BAHADUR
(B.N.BAHADUR)

MEMBER (A)