

CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A.No. 362/96

Date of Decision

28.6.96

Shri H.S. Kattimani Petitioner

Shri M.A. Mahalle Advocate for the Petitioner.

Versus

The Chief General Manager, Respondent
MTNL., Telephone House,
Prabhadevi, Mumbai-28.

Shri V.S. Masurkar Advocate for the Respondents.

Coram:

The Hon'ble Mr. B.S. Hegde, Member (J)

The Hon'ble Mr. P.P. Srivastava, Member (A).

1. To be referred to the Reporter or not?
2. Whether it needs to be circulated to other Benches of the Tribunal?


(B.S. Hegde)
Member (J)

ssp.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, 'GULESTAN BUILDING' NO.6
PRESCOT ROAD, FORT, MUMBAI - 400001.

ORIGINAL APPLICATION NO. 362/96.

Dated this 26th day of June 1996.

CORAM : 1) Hon'ble Shri B.S. Hegde, Member (J)
2) Hon'ble Shri P.P. Srivastava, Member (A).

Shri H.S. Kattimani
By advocate Shri M.A.
Mahalle Applicant

v/s

The Chief General Manager,
M.T.N.L., Telephone House,
Prabhadevi, Mumbai-400028

By advocate Shri V.S.
Masurkar, Central Govt.
Standing Counsel. Respondents

I O R D E R

¶ Per: Shri B.S. Hegde, Member (J) ¶

Heard Shri Mahalle for the applicant and Shri Masurkar for the Respondents. The Tribunal vide its order dated 17-4-1996, after hearing the learned counsel for the applicant, passed an order that considering the facts of the case status quo should be maintained as of today, if he has not already been relieved and issue notice to the respondents to file their reply for opposing admission as well as interim relief before the next date of hearing.

2. Accordingly, the Respondents have filed their reply opposing admission and submitted that the regular promotion to the post of the Divisional Engineer is on All India basis and the same is on selection basis.

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The promotion granted to the applicant was on local officiating basis for 180 days only considering the seniority and on the basis of no vigilance case pending. However, in view of the initiation of vigilance case against the applicant and the resultant withdrawal of vigilance clearance accorded by vigilance section in his favour, the officiating promotion ordered by the Respondents vide their letter dated 25-1-1996 stands terminated with immediate effect. The Respondents vide their order dated 10-4-1996 reverted the applicant to his substantive cadre i.e. SDE with immediate effect and he was retained in the same unit till further orders. In pursuance of the aforesaid order, the Respondents issued another letter dated 11-4-1996 informing the applicant about the termination of local officiating promotion in DE cadre. Further, on 12-4-1996, the applicant was directed to hand over the charge to Shri C.G. Iyer who was directed to look after the additional charge without any extra remuneration until further orders etc.

3. It is an admitted fact, that the applicant was promoted to the post of DE on officiating temporary basis vide their order dated 25.1.1996/till the post is filled up on regular basis whichever is earlier. Admittedly, the post is not filled up on regular basis and the applicant being senior has to be considered for promotion on ad hoc basis as per the pattern in the department. The reversion order issued by the Respondents is on the basis of initiation of vigilance case against the applicant, but so far no charge sheet is issued against

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him. In view of the Apex Court decision in Janakiraman & Kewalram, it is very clear that unless a definite decision is taken by the competent authority to initiate disciplinary proceedings in imposing a major punishment, the mere fact that vigilance case is initiated by itself is not a sufficient ground for reverting the applicant on that ground. Admittedly, the Respondents have not issued charge sheet or any memorandum against the applicant. But for the initiation of the vigilance case, the applicant would have continued in the higher post on officiating basis like others and it is contended before us that the applicant is not relieved and has not handed over the charge in pursuance of the order passed by the Respondents. In the circumstances, we do not see any justification in reverting the applicant from the post of DE to the post of SDE. In the appointment letter, it is made clear that the promotion is purely on temporary basis for a period of 180 days or till the post is filled on regular basis whichever is earlier. It is not the case of the Respondents that after expiry of 180 days the applicant's promotion has been terminated and he has been reverted to substantive post. The reversion order is passed on the basis of the initiation of disciplinary case which has not fructified so far. Therefore, in the absence of any charge sheet issued against the applicant or any definite decision taken by the competent authority to take disciplinary action against the applicant, the reversion order passed by the Respondents is not justified.

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4. Accordingly, we hereby quash and set aside the orders passed by the Respondents viz. Exhibit R-I dated 10-4-1996, 11-4-1996 and 12-4-1996 respectively and direct the Respondents to promote the applicant as Divisional Engineer in an officiating capacity or till the new incumbent is posted on regular basis whichever is earlier. This may be done within a period of 15 (fifteen) days from the date of receipt of the order. The O.A. is disposed of accordingly.



(P.P. Srivastava)
Member (A)



(B.S. Hegde)
Member (J)

ssp.