

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 380/2000

Date of Decision : 3.5.2001.

M.T.Langhi Applicant

Shri G.S.Walia Advocate for the
Applicant.

VERSUS

Union of India & Ors. Respondents

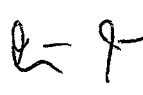
Shri V.S.Masurkar Advocate for the
Respondents

CORAM :

The Hon'ble Shri Justice Ashok C.Agarwal, Chairman

The Hon'ble Smt.Shanta Shastry, Member (A)

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


(SMT.SHANTA SHASTRY)
MEMBER (A)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.380/2000

Thursday this the 3rd day of May,2001.

CORAM : Hon'ble Shri Justice Ashok C.Agarwal, Chairman

Hon'ble Smt.Shanta Shastry, Member (A)

M.T.Langhi,
Chief Section Supervisor (O),
Central Telegraph Office,
Fort, Mumbai.

...Applicant

By Advocate Shri G.S.Walia

V/S.

1. Union of India through
The Chairman,
Telecom Commission,
Sanchar Bhavan, New Delhi.
2. The Chief General Manager,
Maharashtra Telecom Circle,
Fountain Telecom Bldg.No.II,
Mumbai.
3. The Chief Superintendent,
Central Telegraph Office,
Fort, Mumbai.

...Respondents

By Advocate Shri V.S.Masurkar

O R D E R (ORAL)

{Per : Smt.Shanta Shastry, Member (A)}

The applicant in this case was promoted from Gr.III to Gr.IV under the BCR Scheme against the 10% posts. He was promoted against the quota meant for reserved category in terms of para 6 of the letter dated 1.3.1996 Ministry of Communication, Department of Telecommunication. However, later on a view was

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taken by the Principal Bench of the Tribunal in OA.NO. 1455/99 that promotions are to be made on the basis of Base Grade Seniority and not on the basis of the seniority in Grade-III. However, protection was granted to all those who had been promoted on their inter-se seniority in ~~Base Grade~~ ^{III} Seniority by allowing supernumerary posts to be created. The excess pay was granted as personal pay. These people were not reverted. Lateron, a further view was taken by the Department of Telecommunication vide orders dated 30.12.1999 that those who were not promoted on the basis of Base Grade Seniority were to be reverted. Again these people approached the Principal bench of the Tribunal in OA.NO.425/2000 and the Tribunal set aside the order dated 30.12.1999 as well as 10.2.2000. and thus, over-ruled the reversion of the applicants therein.

2. It is the contention of the learned counsel for the applicant that the applicant in this case also was promoted and was adjusted against ^athe supernumerary post and therefore he is also entitled to the benefit of the orders passed in OA.NO.425/2000. Learned counsel for the applicant also referred to the judgement in the case of R.K.Sabarwal ^[1995(2)SCC 745] wherein the Apex Court held that reservation cannot be in excess of the quota prescribed, i.e. 15% for the Scheduled Caste and 7-1/2% for Scheduled Tribe candidates. According to him, since no reservation is provided for upgraded posts, the applicant's promotion amounts to promotion in excess of the quota and since the promotion was prior to the judgement rendered in

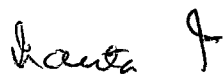
R.K.Sabarwal's case, i.e. prior to 10.2.1995, the applicant's promotion should be protected. We are not in agreement with this. According to us, there was no quota at all for upgraded posts. Hence, Sabarwal's case has no application in the matter.

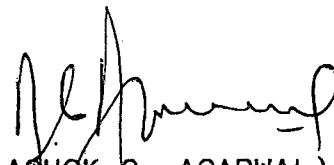
3. Learned counsel for the respondents submits that although in the original letter dated 1.3.1996 it was mentioned that normal rules of reservation would apply to promotions in Grade-IV and the applicant was granted promotion accordingly. Later on, the Ahmedabad Bench of the Tribunal ruled that in the matters of upgraded posts, reservation will not apply. It was held that the action of the Department in applying the reservation roster for upgraded posts cannot be sustained. In view of this, the respondents took action and accordingly have reverted the applicant. The respondents are fully aware that in their original letter reservation was provided for. The applicant is not covered either by functional seniority or seniority under BCR Grade-III. Therefore, he is not even covered by the judgement in OA.No.425/2000.

4. We have perused the judgement of the Ahmedabad Bench of the Tribunal. It has been clearly directed therein that the department should take appropriate action without applying the reservation roster. If the applicants are considered fit for such promotion, they shall be promoted from the relevant date. The department shall take further action in accordance with law

in respect of those officers ^{who} belong to reserve category and who in ^h terms of the judgement would not be eligible for such promotion. By implications therefore the applicants who were promoted against the reservation quota will have to be reverted.

5. In view of this, we hold that the applicant is not entitled to the benefit or the order in OA.No.425/2000 and his reversion by the respondents is up-held. In the facts of the case, the OA. is dismissed. No costs.


(SMT. SHANTA SHASTRY)
MEMBER (A)


(ASHOK C. AGARWAL)
CHAIRMAN

mrj.