

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH CAMP AT AURANGABAD.

ORIGINAL APPLICATION NO.735/2000

MONDAY, THE 15TH JULY 2002.

Coram : Hon'ble Shri Justice Birendra Dikshit, Vice
Chairman
Hon'ble Shri B.N. Bahadur, Member (A).

Prakash Raghunath Vispute,
Age 48, Occupation: Service,
Residing at 28, Sinch Nagar,
Dhule - 424 001.
Maharashtra.

.. Applicant.

By Advocate Shri G.S. Walia.

Versus

1. Union of India,
Ministry of Telecommunications,
Notice to be issued to the
Telecom department of New Delhi-1.
2. Chief General Manager,
Maharashtra Circle,
Fountain Telecom Building,
Mumbai..
3. General Manager (H/Q),
8th Floor, Fountain Telecom Building,
Mumbai.
4. General Manager,
Telecom, Near G.P.O. Building,
Dhule - 424 001.

.. Respondents.

By Advocate Shri V.S. Masurkar.

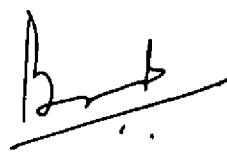
Order (Oral)

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

The applicant comes up to the Tribunal seeking
the reliefs as follows:-

- "(a) the orders dated 11.7.2000 and 21.9.2000
passed by the respondents may kindly be
set aside.
- (b) The C.R. of the petitioner may kindly be
called for the purpose of the hearing
this application.

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- (c) Considering the seniority list, dated 16.3.1998 the petitioner may kindly be given promotion in the category of STS of ITS Group-A, alternatively, local officiating promotion be given to the petitioner.
- (d) Other equitable relief be awarded to the petitioner".

As the facts of the case are in a short compass, we have heard the matter for disposal at admission stage. We have heard Learned Counsel on both sides viz. Shri G.S. Walia for the applicant and Shri V.S. Masurkar, for the respondents.

2. The facts of the case were first briefly stated by Learned Counsel Shri Walia to the effect that a criminal case is now indeed pending against the applicant and that he has submitted a representation in this respect. A copy which is dated 21st July, 2000 is available at page 25 of the O.A. A copy of another representation dated 12.7.2000 is also available at page 24. Some other representations have also been made in this regard, it is pleaded.

3. Arguing the case on behalf of the applicant his Learned Counsel at the outset made the prayer for directions to the effect that the (a) representation made may be decided at the earliest possible (b) that the applicant be considered as per rules/instructions for promotion on adhoc basis, since a period of more than two years have been elapsed from the date of DPC as envisaged

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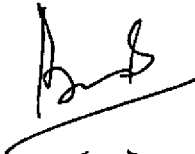
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by Government of India O.M. dated 14th September, 1992 issued by the Department of Personnel & Training. In fact this is the limited prayer at this stage he argued.

4. The Learned Counsel for respondents also brought the fact to our notice and stated that in the O.A., in fact, what is being challenged is the promotion order of others as cited above and that such a relief can not be granted. He also informed us that the promotion order being challenged were in fact related to promotions made for 180 days.

5. We have considered the facts of the case and arguments made on behalf of both sides. What is really being challenged is the supersession. We go directly to the prayers made in arguments by applicant. In the first prayer, the respondents also stated that they can have no objection to timely disposal of the representation made. It is also a fact that clear instructions have been issued vide the aforesaid OM of the DOP&T of 14th September, 1992. We have gone through it and as per these instructions, the Government itself envisages that where a disciplinary case or criminal prosecution against Government servant is not concluded even after expiry of two years from the date of meeting of first DPC

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the Appointing Authority may review the case of the Government servant, provided he is not under suspension. In the present case, it is an agreed fact that the applicant is not under suspension, therefore, there can be no objection for the Respondents to be directed to follow these instructions.

6. In the background of the above facts and circumstances of the arguments made and Government order on the subject referred to above, we dispose of this case with the following direction/order to respondents (1) the representation made by the applicant dated 12.7.2000 Annexure-D and 21st July, 2000 Annexure-E and other representations may be disposed of by competent authority in the Respondents organisation by a reasoned order on merits and in accordance with law. The disposal shall be made within a period of three months from the date of receipt of copy of this order. (2) The respondents shall consider the case of the applicant for adhoc promotion in terms of the aforesaid OM No.22022/4/81-Est(A) dated 14th September, 1992 issued by Government of India, DOP&T on merits and in accordance with law and take a decision in the matter within three months from the date of receipt of copy of this order. No order as to costs.

B.N. Bahadur
(B.N. Bahadur)
Member (A)

B. Dikshit
(Birendra Dikshit)
Vice Chairman.

H.