

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A. 321 of 2001

Dated this the 17th day of October, 2001

Hon'ble Mr. Justice Birendra Dikshit - Vice Chairman (J)
Hon'ble Mr. B.N. Bahadur - Member (A)

Subhashchandra Nathuram Dandekar,
S/o Nathuram Bhikaji Dandekar,
aged 59 years,
Sub Divisional Engineer (CPT-II) W-1,
MTNL, Mumbai - 54.
R/o Amre Chawl, Amboli Hill,
Ceaser Road, Andheri (West),
P.O. Mumbai - 400 058.

.... Applicant

(By Advocate Shri S.P. Kulkarni)

VERSUS

1. Union of India
through Director General (Telecom),
Department of Telecommunications,
(Ex-Officio Chairman, Telecom Commission),
Dak Bhawan, Parliament Street,
P.O. New Delhi - 110 001.
2. Chief General Manager,
M.T.N.L., Telephone House, V.S. Marg,
Dadar (West), at P.O. Mumbai - 400 028.
3. General Manager (West - I),
MTNL Jeevan Seva, Extension Building,
LIC Complex, Santacruz (West),
Mumbai 400 054.
4. The Accounts Officer (Works), W.I.,
MTNL, Mumbai LIC Buildings,
P.O. Santacruz (West),
Mumbai - 400 054.

... Respondents

(By Advocate Shri V.S. Masurkar)

O R D E R (Oral)

Hon'ble Mr. B.N. Bahadur - Member (A) -

The applicant in this case comes up to the Tribunal seeking the relief, in substance, that his promotion from the post of JTO to the post of TES Group 'B', which has been ordered w.e.f.

....2/-

B.B.

22.3.2001, should in fact be granted from 21.10.1998. Consequential benefits regarding fixation of pension, retiral benefits and fixation of pay etc. are also sought.

2. The facts of the case are in a narrow compass, in that the applicant who was working on officiating basis in TES Group 'B' was provided regular promotion through order dated 21.10.1998 but his promotion was held back for want of Vigilance Clearance. As late as on 13.4.1999, a charge memo was issued, for departmental enquiry, to him. The departmental enquiry was gone through as per procedure, and finally vide order dated 11.10.2000, the applicant was totally exonerated.

3. The case of the applicant, as argued strenuously by his learned Shri S.P.Kulkarni, is that the order issued promoting the applicant w.e.f. March, 2001, is in fact wrong, and that as per the ratio decided by the Hon'ble Supreme Court in the case of Union of India Vs. K.V. Jankiraman (AIR 1991 SC 2010), the applicant squarely deserves to be promoted w.e.f. 21.10.1998.

4. We have seen all papers in the case including the written statements, and have heard both learned counsel. While the case was argued as a covered case, as discussed above, by learned counsel Shri S.P.Kulkarni for the applicant, the learned counsel for the respondents relied on the written statement for his argument.

5. Upon careful scrutiny of the facts and circumstances of the case, especially the dates as admittedly recorded in the synopsis preceding the OA, it is clear that the ratio in the case



of K.V.Jankiraman (supra) squarely applies to the present case. There is no defence taken even to the effect that there was any decision on file to start an enquiry before October 21st 1998. In fact the charge sheet came about some eight months after the date of issue of promotion orders in October, 1998. Secondly, a perusal of the order of the disciplinary authority dated 11.10.2000 (Page 23 to 25 of the Paper Book) shows that the disciplinary authority has come to the conclusion that the applicant be exonerated from all charges and that the duration of period of suspension be considered as duty. In this background and the square applicability of judgment of K.V.Jankiraman (supra), we are convinced that the applicant has full case for the reliefs that he seeks and that the OA deserves to be allowed.

6. In the consequence, the OA is allowed and it is held that the applicant shall be provided with regular promotion with effect from 21.10.1998. All consequential benefits to which the applicant may be entitled to, such as fixation of pay for purposes of calculation of arrears if any, retiral benefits etc. shall be made available to him as per rules.

7. The OA is thus allowed in terms of para 6 above. The order shall be implemented within a period not exceeding two months from the date of receipt of a copy of this order. There shall be no order as to costs.

B.N. Bahadur

(B.N. Bahadur)
Member (A)

B. Dikshit

(Birendra Dikshit)
Vice Chairman