

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH BANGALORE

TODAY THE NINETEENTH OF FEBRUARY, 1987

Present: Hon'ble Shri Ch. Ramakrishna Rao ..Member(J)
Hon'ble Shri L.H.A. Rego ..Member(A)

APPLICATION NO.1530 OF 1986(T)
(WP NO.15309 of 1985)

V. Rajeev Shetty,
S/o Venkataiah Shetty,
Telephone Operator,
Telephone Exchange,
Udupi, D.K. Dist.
Karnataka.

..Applicant.

VS.

1. The Director,
Telecommunication,
Mangalore Area,
Mangalore.
2. Smt. K. Shankundala,
Telephone Operator,
Kundapura(Telephones)
O/o the Sub-Divnl. Officer,
(Telephones),
Kundapura, Karanataka.

..Respondents.

This application has come up for hearing before Court
and Member(A) made the following:

O R D E R

This is an application transferred under Sec.29 of the
Administrative Tribunals Act, 1985, wherein the prayer made is, to direct
the first respondent, to consider ~~the~~ promotion of the applicant to
the higher scale, in accordance with the instructions issued by
the Director General of Posts and Telegraphs, New Delhi, on
16-12-1983(Annexure-B) in regard to "time-bound promotion", to employees
in the operative cadres, in the Posts & Telegraph Department (P & T
Department, for short), and to grant such other relief, as deemed
appropriate.

2. The facts of the case leading to this application are
briefly as follows: The applicant entered service in the P & T
Department, on 30-5-1966 as a Telephone Operator in the ^{LL scale} pay of
Rs.260-480 and has to date, completed over 19 years of service.

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The P & T Departmental Counsel, after due consideration agreed on 30-10-1983, to implement the Scheme of "time-bound promotion", for the benefit of the regular employees in the operative cadres of the P & T Department, with effect from 30.11.1983, the relevant features of which are outlined in Annexure-A. The Director General of P & T, New Delhi (DG, for short) issued detailed instructions under his letter dated 16-12-1983 (Annexure-B), ("Instructions" for short), as to the manner in which this scheme should be implemented. According to these "Instructions", all officials belonging to the basic operative grades in Groups C and D (which were to be considered for direct recruitment, either in the open or through limited competitive examination, from lower cadres) and ~~xxx~~ who had completed 16 years of service in these grades, were to be placed in the next higher grade. The concerned Heads were therefore directed, to take immediate action to identify officials, who had completed 16 years of service in the above grades as on 30-11-1983, as also those who would complete 16 years of service between 1-12-1983 to 31-3-1984, as a prerequisite to convening the meetings of the Departmental Promotion Committees (DPCs), to consider promotion of employees under this Scheme.

3. The applicant completed 16 years of service on 29-5-1982 and was therefore eligible for promotion to the next higher scale of Rs.425-640, with effect from 30-11-1983 in accordance with the "Instructions". The applicant alleges, that in spite of this, he was not considered for promotion on 24-2-1984 (Annexure-C) by the first respondent. Consequently, the second respondent who was junior, superseded him.

4. Aggrieved, the applicant states that he re-presented to the first respondent more than once, but to no avail and was therefore constrained to file a writ petition in the High Court of Judicature, Karnataka, which is now transferred to this Bench and is before us for consideration.

5. Dr. M.S. Nagaraja, learned Counsel for the applicant urged, that the applicant had completed more than 19 years of service and had fulfilled the conditions stipulated for promotion to the higher scale and yet he was denied promotion to the higher scale, ~~and~~ ^{he} ^{and} contrary to the "Instructions", this was illegal; that the applicant had not been communicated any adverse remarks in his confidential service record, ^{and} throughout his career; that his meritorious achievement in 1980-81, as the third best Telephone Operator in Karnataka Circle, was overlooked.

6. Shri M.Vasudeva Rao, learned Counsel for the respondents, repudiated each of the grounds urged by Dr. Nagaraja. He averred, that promotions to the higher scale, were based on the recommendation of the DPC, which had examined carefully the service record of the applicant and relevant aspects, but did not find the applicant suitable for promotion, at its first meeting held on 15-2-1984. Shri Rao submitted, that the contention of the applicant, that he was not communicated adverse remarks in his confidential service record was not truthful, and pointed out, that the applicant was penalised in 1982-83, for misuse of a trunk call and that his overall service record, for the period immediately preceding the date viz. 15-2-1984, when the DPC held the meeting was not satisfactory. Though his service record for 1980-81 was good, it was not good enough thereafter.

7. Dr. Nagaraja produced before us, a photostat copy of the gist of the instructions, said to have been issued by the DG under his letter No.35/9/84-SPB-II, dated 19-5-1984 which reads as under:

"Promotion of the official can be given effect to, during the currency of the punishment of monetary recovery. In this connection, your kind attention is invited

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to the instructions issued by the Ministry of Home Affairs, Dept. of Personnel & A.R. under their Memo No.22011/1/78 Estt(A) dated the 16-2-1979, stating ^{Ref} inter-alia the punishment, censure, recovery and pecuniary loss and stopping of increment, do not constitute a bar, to the promotion of the official, provided, on the basis of over all assessment of his record of service, the DPC recommends his promotion to the next higher grade".

8. Dr. Nagaraja was however not able to furnish a copy of the entire letter from the DG. Shri Rao, however did not contravert the veracity of these instructions, though he too, could not produce a complete copy of this letter. The above communication from the DG, refers to the instructions issued by the Union Ministry of Home Affairs, on 16-2-1979, which inter-alia state, that stoppage of increment, does not constitute a bar to promotion of an official, provided, the DPC recommends ^{this} promotion to the next higher grade.

9. We notice from the CR ^{dossier} of the applicant, produced by the respondents, that while the applicant was serving as Telephone Operator at Kundapura, the Divisional Engineer, Telegraphs, Karwar, had in appeal, imposed on the applicant, on 16.3.1983, the punishment of withholding his increment, for a period of 6 months, without cumulative effect, from the date it accrued. We see, that the effect of the punishment ceased well before the DPC met on 15-2-1984, to consider the case of the officials who were eligible for "time-bound promotion", according to the "instructions". We examined the proceedings (placed before us by counsel for the respondents) of the DPC, which met on 15-2-84 for the first time, to consider the case of the eligible officials for "time-bound promotion", of Telephone Operators, from the scale of Rs.260-480 to that of Rs.425-640. We must express our displeasure, at the slovenly and perfunctory manner, in which the so-called proceedings have been recorded by the DPC. What has been recorded has scarcely any semblance to well-reasoned, and

cogent minutes, explaining as to why certain officials had been considered suitable or otherwise, for promotion to the higher scale. The proceedings of 15-2-1984, that were shown to us, contained only a tabular statement, with columns unnamed and a ~~xxx~~ mere tick mark, in the fifth column, against each name, said to signify that the official was considered suitable for promotion to the higher scale. The applicant has been shown at S.No.6 in this tabular statement, but strange enough, a tick mark has also been shown against his name in the fifth column, but ^{the} ~~the~~ an Uninitialled cryptic remark, in a different ink, as "Not recommended, Punishment". The proceedings do not indicate the date, time and venue of the meeting and the name and designation of the Members and as to who was the Chairman of the DPC. We cannot but deprecate such shoddy ~~an~~ and unmethodical recording of the proceedings of the DPC, which have a vital bearing on the career of the officials concerned. The proceedings, according to well-established procedure and ^{con}vention, should have recorded explicitly and in adequate detail, the reasons, as to why certain officials were considered suitable for promotion to the higher scale and others not, and should have indicated that the DPC had examined the service record and other relevant aspects carefully, before recording its observation. We hope that the authorities concerned, will take due care to follow the correct procedure meticulously, in future.

10. The remarks "Not recommended. Punishment" by the DPC, against the name of the applicant, in its proceedings at the meeting held by it on 15-2-1984, to say the least, are laconic and inept, and do not conform to to well-established procedure. It appears, that the punishment of withholding of increments for a period of 6 months and that too, without cumulative effect, imposed on the applicant, (as referred to by us earlier in para 10 supra), weighed on the minds of the Members of the DPC, as not to consider him for promotion to the higher scale. This

actually
punishment/ceased to have effect, when the DPC met on 15-2-1984,
to consider the case of the applicant.

11. Shri Rao, Counsel for the respondents, sought to attribute other reasons, ^{as} to why the DPC did not consider the applicant for promotion to the higher scale. The so-called proceedings of the DPC, ^{relating} to the meeting held by it on 15-2-1984, pointedly refer to the above punishment, as an impediment to promotion of the applicant and is ominously silent, on any other reason, which Shri Rao vainly seeks to ascribe.

12. We have carefully perused the Confidential Service record (CR for short) of the applicant, for the period of three consecutive years, immediately preceding the date of the meeting of the DPC held on 15-2-1984 i.e. for the years 1981-82, 1982-83 and 1983-84. We find, that except for reference to the punishment of stoppage of an increment, for a period of 6 months (mentioned above), in the CR of the applicant, for the period from 6-7-1982 to 31-3-1983, there is no other adverse comment against the applicant, in his CRs for the period of three consecutive years, immediately anterior to the date ~~of the meeting~~ viz. 15-2-1984, of the DPC meeting. From the records placed before us by the respondents, no other adverse remark is ^{seen} to have been communicated to the applicant, for the above three years in question. Incidentally, we cannot but help express our surprise and dismay, at the same Reporting Officer viz. the Junior Engineer, Trunks and Carrier, Kundapura, assessing the CR of the applicant disparately, for one and the same Reporting Year, viz. 1981-82, which seems to have escaped the notice of the Reviewing Officer, which ^{is} ~~betrays~~ ^{the} ~~bearing~~ the lack of care, with which the CRs are written and reviewed.

14. The DPC is seen to have met again on 10-10-1984,


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for considering the case of Telephone Operators, for promotion to the higher scale. We have examined the proceedings which are as vague, cursory and defective, as remarked by us earlier, in regard to the meeting of the DPC, held for the purpose, on 15-2-1984. We find, that the DPC has recorded its remarks "Approved from 1-12-1984", against the name of the applicant in the proceedings of its meeting held on 10-10-1984. Counsel for the respondents could not explain to us the significance of the date 1-12-1984.

15. In the light of the foregoing, it is clearly manifest, that the DPC has denied promotion to the applicant to the higher scale, without valid reasons and that the respondents did not ensure due compliance with the "Instructions" in the matter.

16. In the result, we allow the application and direct the respondents, to promote the applicant to the higher scale of Rs.425-640, in the grade of Telephone Operator, with effect from 30-11-1983 (i.e. the date from which the Scheme of "time-bound promotion", was brought into effect under the "Instructions") with consequential benefits. In the circumstances, we direct the parties to bear their own costs.


(CH. RAMAKRISHNA RAO)
(MEMBER(J))


(L.H.A. REGO) 19.2.1987
MEMBER(A)