

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
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Commercial Complex(80A)  
Indiranagar  
Bangalore - 560 038

Dated : 4 OCT 1988

APPLICATION NO. 42/87(F)

Applicant

Shri R.S. Ahuja

v/s

Respondents

The Deputy Director General of  
Civil Aviation, New Delhi & 7 Ors

To

1. Shri R.S. Ahuja  
Assistant Technical Officer  
Aeronautical Communication Station  
Mandakelly Aerodrome  
Mysore - 571 311
2. Shri K.M. Jagadish  
Advocate  
M/s Hagde Associates  
Andhra Davanga Buildings  
Gandhinagar  
Bangalore - 560 009
3. The Deputy Director General of  
Civil Aviation  
Office of the Director General of  
Civil Aviation  
East Block II & III  
R.K. Puram  
New Delhi - 110 066
4. The Director of Communication  
Delhi Region  
Civil Aviation Department  
Office of the Regional Director  
Delhi Region, Safdarjung Airport  
New Delhi - 110 003
5. Shri Thakar Datt  
Officer on Special Duty (Enquiries)  
Office of the Director General of  
Civil Aviation  
East Block II & III  
R.K. Puram  
New Delhi - 110 066
6. The Chairman  
National Airport's Authority  
East Block II & III  
R.K. Puram  
New Delhi - 110 066
7. Shri A.K. Bhowal  
Assistant Technical Officer  
Office of the Director of  
Communication (N.A.A.)  
Calcutta Region  
Calcutta Airport  
Calcutta
8. Shri N.C. Gupta  
Assistant Technical Officer  
Aeronautical Communication Station  
Aizal (Mizoram)

....2

Issued  
K.K. [Signature]  
14-10-88

o/c

9. Shri D.K. Gupta  
Assistant Technical Officer  
Office of the Director of  
Communication (N.A.A.)  
Bombay Region, Bombay Airport  
Bombay
10. The Deputy Director of Administration  
Office of the Director General of  
Civil Aviation  
East Block II & III  
R.K. Puram  
New Delhi - 110 066
11. Shri M.S. Padmarajiah  
Central Govt. Sng Counsel  
High Court Building  
Bangalore - 560 001

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Sub : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER passed by this Tribunal  
in the above said application on 21-9-88.

Encl : As above

  
SECTION OFFICER  
(JUDICIAL)

d/c -

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 21ST DAY OF SEPTEMBER, 1988.

PRESENT:

Hon'ble Mr. Justice K.S. Puttaswamy,

.. Vice-Chairman.

And:

Hon'ble Mr. P. Srinivasan.

.. Member(A).

APPLICATION NUMBER 42 OF 1987

R.S. Ahuja,  
S/o Chaman Singh Ahuja,  
Assistant Technical Officer,  
Aeronautical Communication Station,  
Mandakally Aerodrome, Mysore-571 311.

.. Applicant.

(By Sri K.H. Jagadish, Advocate)

v.

1. Union of India,  
Deputy Director General of Civil Aviation,  
Office of the Director General of  
Civil Aviation, East Block II & III,  
R.K. Puram, New Delhi - 110 066.
2. Director of Communication,  
Delhi Region, Civil Aviation  
Department, Office of the Regional  
Director, Delhi Region,  
Safdarjung Airport, New Delhi-110 003.
3. Thakar Datt,  
Officer on Special Duty (Enquiries),  
Office of the Director General of  
Civil Aviation, East Block,  
II & III, R.K. Puram, New Delhi-110 066.
4. The Chairman,  
National Airport's Authority,  
East Block II & III,  
R.K. Puram, New Delhi-110 066.
5. A.K. Bhowal,  
Assistant Technical Officer,  
Office of the Director of Communication  
(N.A.A.) Calcutta Region,  
Calcutta Airport, Calcutta.
6. N.C. Gupta,  
Assistant Technical Officer,  
Aeronautical Communication Station,  
Aizal, Mizoram.
7. D.K. Gupta,  
Assistant Technical Officer,  
Office of the Director of Communication  
(N.A.A.) Bombay Region, Bombay Airport,  
Bombay.

8. Deputy Director of Administration,  
Office of the Director General of  
Civil Aviation, East Block II & III,  
R.K.Puram, New Delhi.

.. Respondents.

(By Sri M.S.Padmarajaiah, SCGSC)

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This application having come up for hearing this day, Hon'ble Vice-Chairman made the following:

O R D E R

This is an application made by the applicant under Section 19 of the Administrative Tribunals Act, 1985 ('the Act').

2. Sri R.S.Ahuja, the applicant before us, who commenced his career on 10-6-1965 as a Radio Technician in the Civil Aviation Department of Government of India making career advances was working in 1979 as Office-in-charge A.C.S. Sikandrabad. When he was so working, noticing certain omissions and commissions in the discharge of his duties, the Director of Communication, Delhi Region, Civil Aviation Department, Government of India and the Disciplinary Authority ('DA') commenced disciplinary proceedings against the applicant under the Central Civil Services (Classification, Control and Appeal) Rules, 1965 ('the Rules') on two charges. On the applicant denying them, the DA appointed an Inquiry Officer ('IO') to inquire into the truth or otherwise of the charges who on holding an inquiry, submitted his report to the DA finding him guilty of the charges. On an examination of the report of the IO and the records, the DA by his order No.2(27)-84-Vig/180 dated 22-3-1985 (Annexure-B) inflicted on the applicant the penalty of 'censure'. Against this order, the applicant filed an appeal before the Deputy Director General, Civil Aviation and Appellate Authority ('AA') who by his order made on 13-6-1986 (Annexure-D) had dismissed the same.

3. When the aforesaid disciplinary proceeding was pending against the applicant his case for promotion to the post of Assistant Technical Officer ('ATO') was considered by the Departmental Promotion Committee ('DPC') on 17-10-1984 along with other eligible officers

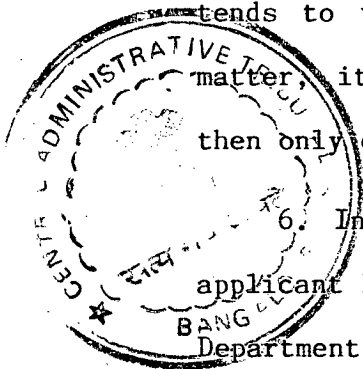
and the result of its deliberations on him were, therefore kept in a 'sealed cover'. On that day the DPC recommended for the promotion of others, one of whom was respondent No.5 who was junior to the applicant and was graded as 'Good'. On that or on later occasions respondents 6 and 7 have been similarly promoted as ATOs. From 27-3-1986, the applicant has also been promoted as an ATO and <sup>is</sup> working from that date.

4. In this application made on 20-1-1987, the applicant has challenged the orders of the AA and DA in the disciplinary proceedings his non-promotion to the post of ATO on 17-10-1984, the promotions of respondents 5 to 7 and the higher seniority accorded to them on diverse grounds which will be noticed and dealt by us in due course.

5. In their reply, respondents 1 to 4 and 8 in supporting the impugned orders and their actions have also urged that from 1-6-1986, the applicant is working in a statutory authority called the 'National Airports Authority' ('NAA') constituted and functioning under the National Airports Authority Act, 1985 (Central Act 64 of 1985) ('1985 Act') which came into force from that day. On this score, these respondents have urged that this Tribunal had no jurisdiction to entertain and deal with this application under the Act. Sri M.S. Padmarajaiah, learned Senior Central Government Standing Counsel appearing for these respondents has urged this objection at the very threshold. Sri K.H. Jagadish, learned counsel for the applicant con-

tends to the contrary. As this objection goes to the root of the matter, it is necessary to examine and decide the same first and then only deal with merits if we do not uphold the same.

6. In their reply, respondents 1 to 4 do not dispute that the applicant had been appointed as a civil servant in the Civil Aviation Department of Government of India and that he had not so far been absorbed in the NAA under the 1985 Act and that he is working in the NAA only on deputation basis. On this, it follows that the applicant is still a civil servant of the Union of India and is on deputa-



deputation in the NAA. If that is so, then Section 14(1) of the Act empowers this Tribunal to deal with the service dispute of the applicant.

7. Even otherwise every one of the actions taken and completed against the applicant and challenged by him were completed when he was a civil servant of the Union of India and not as servant of the NAA.

8. On the foregoing discussion, we hold that there is no merit in the objection raised by respondents 1 to 4 to the jurisdiction of this Tribunal. We, therefore, reject the same and proceed to examine the merits.

9. Sri Jagadish contends that the orders made by the AA and the DA which are not speaking orders were in controvention of the Rules, principles of natural justice and were based on 'no evidence' and were illegal.

10. Sri Padmarajaiah contends to the contrary.

11. We have carefully examined the charges levelled against the applicant, the proceedings before the IO, the report of the IO, the final order of the DA and the order of the AA on appeal.

12. The fact that the order of the AA is not lengthy does not necessarily mean that it is not a speaking order. The AA had considered the principal grounds urged by the applicant on questions of fact and law, the legality of the proceedings and had upheld the order of the DA. On these circumstances we cannot hold that the order of the AA is not a speaking order.

13. When the DA concurs with the findings of the IO as in the present case, he is not required to give elaborate reasons for the same. On this, we cannot take exception to the order of the DA on the ground that it is not a speaking order.

14. We have carefully examined the proceedings before the IO, the evidence on record and the report of the IO.

15. We find that at every stage, the applicant had been afforded all opportunity to defend himself before the IO. We do not find any illegality or impropriety in the proceedings held by the IO. We also find that his findings are based on admissible evidence with which the DA and AA have concurred. From this it follows that the orders of the DA and AA do not suffer from any infirmity to justify our interference.

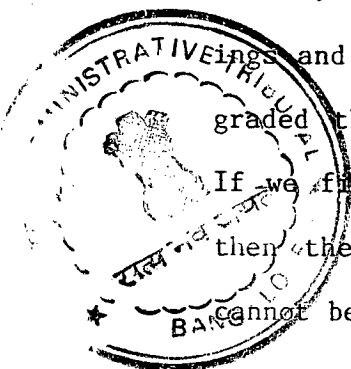
16. When we took up this case for hearing, the 'sealed cover' had not been opened by the authorities. In order to determine ~~all~~ all matters we opened the sealed cover against the applicant, perused the proceedings of the 'DPC' held on 17-10-1984 and shown the same to the counsel appearing on both sides. On the completion of hearing and dictation of our order, we have returned the same to Sri Jayasingh Manoharan, Legal Superintendent, National Airport Authority, Madras Region, along with other records.

17. Sri Jagadish contends that on the very opinion recorded by the DPC on 17-10-1984, the applicant should be promoted as ATO from that day at any rate in preference to respondent-5 who was junior to him.

18. Sri Padmarajaiah contends that since we have upheld the orders imposing the penalty against the applicant, we cannot direct his promotion notwithstanding the gradings given to him and respondent-5.

19. In its proceedings, the DPC had graded the applicant as 'Good'. But, if the DPC had the benefit of the disciplinary proceedings and the penalty on him, we have no doubt that it would not have graded the applicant as 'Good' and directed his promotion on 17-1-1984. If we find no justification to promote the applicant from that date then the promotion of respondent-5 though junior to the applicant cannot be interfered with by us.

20. We find that respondents 6 and 7 had been promoted on a superior grading they secured by the DPC over the applicant. If



If that is so then, we cannot take exception to their promotions.

21. Admittedly, the applicant had been promoted as ATO from 27-3-1986 which is not disputed by him. Even this justifies us not to interfere with the non-promotion of the applicant and the promotions of respondents 5 to 7 on any ground.

22. In the light of our above discussion, we hold that this application is liable to be dismissed. We, therefore, dismiss this application. But, in the circumstances of the case, we direct the parties to bear their own costs.



Sd/-  
VICE-CHAIRMAN. 2/11

TRUE COPY

Sd/-  
MEMBER(A)

*[Signature]*  
SECTION OFFICER  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL PERSON  
BANGALORE



पत्र-व्यवहार 22  
Co. 22

भारतीय डाक विभाग  
DEPARTMENT OF POSTS, INDIA

प्रेषक  
From

Director of Postal Services  
Aizawl, Mizoram-796001

सेवा में  
TO

Sh. Bk. Bhat, Section Officer, J. Shon  
Central Adm. Tribunal  
Addl. Bench, Bangalore

क्रम संख्या  
No.

CR/F 12-92/S/88-59

दिनांक  
Dated at

Aizawl 10-11-88

विषय  
Subject

Do Indisaranjan Commercial  
Complex 80 CR/Adm. No. H-538  
12.30.6.88.

Ref. Yr. Transm. no. A. no. 42/87/F dt 17.8.88

Sr.  
Kindly refer to the postmaster, Aizawl M.  
letter no. E4-40/8/88 dt 27.8.88 addressed  
to you on the above subject in which it was  
reported that the article under question was  
not received at his end. Hence the case  
is treated as closed.

J.F.

*[Signature]*

for Director of Postal Services  
Aizawl, Mizoram-796001

DDd+21/88

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inf. per his letter above.

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for Director of Postal Services  
Aizawl, Mizoram-796001