

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560 038.

Dated:- 7 APR 1994

APPLICATION NUMBER: 695 of 1993.

APPLICANTS:

Sri.B.K.Hamsagar v/s. Chief General Manager, Karnataka Telecom
To. Circle, Bangalore and Other.

1. Sri.M.Raghavendra Achar, Advocate,
No.1074 and 1075, 4th Cross,
Second Main Road, Sreenivasanagar, Second Phase,
Bangalore-560 050.
2. The Chief General Manager,
Karnataka Telecom Circle,
1, Old Madras Road, Ulsoor,
Bangalore-560008.
3. Sri.M.Vasudeva Rao, Addl.C.G.S.C.,
High Court Bldg, Bangalore-560001.

Subject:- Forwarding of copies of the Orders passed by the
Central administrative Tribunal, Bangalore.

Please find enclosed herewith a copy of the ORDER/
STAY ORDER/INTERIM ORDER/, passed by this Tribunal in the above
mentioned application(s) on 25th March, 1994.

Issued on

7/4/94

of
c

Re:

S. Sharath
for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO.695/1993

FRIDAY THIS THE TWENTY FIFTH DAY OF MAR, 1994

MR. JUSTICE P.K. SHYAMSUNDAR VICE CHAIRMAN
MR. T.V. RAMANAN MEMBER (A)

(Shri M.R. Achar - Advocate)

v

1. The Chief General Manager,
Telecom, Karnataka Circle,
Bangalore

2. The Divisional Engineer, Telecom, Hubli Division, Hubli

Respondents

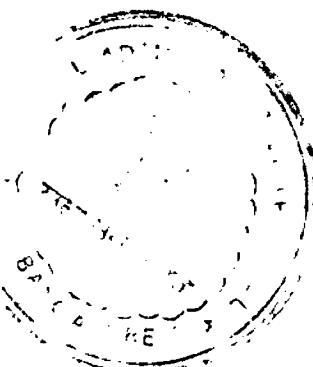
(By learned Standing Counsel)
Shri M.V. Rao

0 R D E R

Mr. T.V. Ramanan, Member (A)

Admitted.

2. This application under Section 19 of the Administrative Tribunals Act, 1985, seeks to secure the benefit of time bound promotion for the applicant w.e.f. 1.7.92 under a scheme of the Department under which after completion of 26 years of service, the applicant is entitled to a promotion.



3. The applicant joined the Department of Telecommunication as a Carrier Mechanic on 13.7.66 and, as such, he was entitled to be considered for a time bound promotion w.e.f. 1.7.92 i.e. after completion of 26 years. The applicant made a representation early in January, 1992, praying for such a promotion and the Chief General Manager(Telecom), Karnataka Circle, Bangalore by his letter dated 17.3.92 (Annexure A-1) informed the applicant through the latter's superior officer that the applicant, who was at that time, ~~was~~ working as a Technical Supervisor would be eligible for promotion only from 1.7.92. Subsequently, some of the applicant's juniors secured the time bound promotion. Aggrieved, he made representations as at Annexures A-2 and A-3 but to no avail.

4. We have heard the learned counsel for the applicant and the learned Standing Counsel appearing for the respondents and perused the records made available by learned counsel for the respondents.

5. Prior to 1978, the Technical Cadre of the Telecom Department was a Circle Cadre and during 1978, the divisionalisation of the Technical Cadre took place. The applicant was promoted as Technical Supervisor in October, 1978, and the cadre of Technical Supervisors was divisionalised in 1989. The 1st respondent had issued a letter to all the circle and division offices to obtain and forward options of the Technical Supervisors as to the unit in which they would prefer to serve. A perusal of the record shows that such an option

was not obtained from the applicant. This is clear from letter No. Staff/1-18/Tech. II dated 18.10.93 addressed by the Chief General Manager, Telecom, Karnataka Circle, Bangalore to the General Manager, Maintenance, Southern Telecom Region, Bangalore, in whose jurisdiction the applicant was working as Technical Supervisor, Maintenance at Hubli. The said letter is reproduced below:

"Kindly refer to your letter (2) cited above. In this connection it is brought to your notice that the official on recruitment as Technician was posted to your Maintenance Unit on 1.4.67. When the Technical Cadre was divisionalised intimation was given to your unit to obtain option and forward to concerned units. Again when Technical Supervisor cadre was divisionalised a letter was issued from this office vide Staff/1-17/ Dlgs. dated 13.11.1987 for obtaining options and forwarding it to concerned units. This action appears to have not been taken which has resulted in the official approaching C.A.T.

In the present case you may obtain necessary option immediately from the official if not done so far and forward it to concerned S.S.A. for conducting D.P.C. for promotion to B.C.R. of Shri B.K. Hamsagar. This being a C.A.T. case, you are requested to bestow personal attention and take necessary action in the matter under intimation to this office."

6. A reading of this letter would show that while options were required to be obtained from the Technical Supervisors vis-a-vis divisionalisation, no action appears to have been taken by the Southern Telecom Region. It was only in this letter that the Chief General Manager directed the General Manager, Maintenance, Southern Telecom Region to obtain the option of the applicant immediately, if not already done, and forward it

to SSA for conducting DPC for promotion under the Biennial Cadre Review promotion i.e. the time bound promotion referred to supra. Apparently, the applicant had not been required to exercise his option in pursuance of the letter dated 13.11.87 mentioned in letter dated 18.10.93 quoted above. The 2nd respondent, the Divisional Engineer, Telecom, Hubli, did not have any records about the applicant. In fact, apart from the Circle Gradation List of 1.1.77/1.1.78 in which the applicant's name figures, in none of the Gradation Lists produced before us of District Hubli i.e. Gradation Lists of 1.1.77, of 1.1.78, of 1.1.82 and of 1.7.88, the name of the applicant figures. No option apparently was taken and communicated to the Division of the choice of the applicant so that his name would find inclusion in the Gradation List of the Technical Supervisors of the Division for any purpose including the purpose of B.C.R. promotion after completion of 26 years.

It was only thereafter i.e. on 3.11.93 that the applicant's option showing his willingness to work in the Hubli Telecom Division was taken and soon thereafter a D.P.C. was held on 22.12.93 wherein he, among others, was found fit to be promoted but promotion was allowed to him only w.e.f. 1.1.94.

7. As already observed, option of the applicant was not taken in time by the Department. Also, there is nothing on record to show that the applicant was at any time scunned to exercise his option. That being the position, the applicant, who was entitled to get his promotion from 1.7.92 and whose juniors and batchmates had been promoted from the same date or other dates near about, should not

suffer on account of the delay in his promotion. In the normal course, if his option had been taken, he would have been promoted from 1.7.92 and not from 1.1.94 but his option having been obtained on 3.11.93 and the DPC having taken place on 22.12.93, he was promoted w.e.f. 1.1.94. His promotion w.e.f. 1.1.94 is, therefore, untenable for no fault of his and the applicant fully deserves his promotion from 1.7.92.

8. We, therefore, accept this application and direct the respondents to consider the case of promotion of the applicant to the grade of P.1600-2660 in Biennial Cadre Review Scheme w.e.f. 1.7.92 and pass suitable orders thereafter. All these should be got done within a period of two months from the date of receipt of a copy of this order. No order as to costs.

Sd/-
raman

(T.V. RAMANAN)
MEMBER (A)

Sd/-

(P.K. SHYAMSUNDAR)
VICE CHAIRMAN

TRUE COPY

S. Srinivas
7/4
SENIOR OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

