

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

OPEN COURT/PRE DELIVERY JUDGEMENT IN OA 1278/95

Hon'ble Vice Chairman / Member (J) /

Member (A) may kindly see the above judgement for  
approval / signature.

*km*

~~V.C. / Member (J) / Member (A)~~

Hon'ble Vice Chairman

Hon'ble Member (J)

Hon'ble Member (A)

*I agree*

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6/11*

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CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO: 1278/95

DATE OF DECISION: 5th January 2001

Shri M.M. Vohra

Applicant.

Shri P.A. Prabhakaran.

Advocate for

Applicant.

Versus

The Union of India and others

Respondents.

Shri V. S. Masurkar.

Advocate for

Respondents

**CORAM**

Hon'ble Shri Kuldip Singh, Member (J)

Hon'ble Ms. Shanta Shastray, Member (A)

(1) To be referred to the Reporter or not? N

(2) Whether it needs to be circulated to N  
other Benches of the Tribunal?

(3) Library.

  
(Kuldip Singh)  
Member (J)

MS

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI,

ORIGINAL APPLICATION NO: 1278/95

the day of JANUARY 2001

CORAM: Hon'ble Shri Kuldip Singh, Member (J)

Hon'ble Ms. Shanta Shastry, Member (A)

M.M. Vohra  
Resident of P -5  
Sector 9, CBD Belapur  
New Bombay.

...Applicant.

By Advocate Shri P.A. Prabhakaran.

V/s

1. Union of India through  
the Ministry of Communication  
Department of Telecommunication  
(TFS Section) Sanchar Bhavan,  
Ashoka Road, New Delhi.
2. The Chairman Telecom Commission  
Department of Telecommunication  
20 Ashoka Road,  
New Delhi.

By Advocate Shri V.S. Masurkar.

3. Shri P.K. Chaudhri
4. Shri A.K. Saha
5. Shri A.B. Samanta
6. Shri D.Roy
7. Shri D.R. Singh
8. Shri Shyam Sunder Das (Retired)
9. Shri A.K. Garg
10. Shri R.K. Srivastava
11. Shri S. Chaudhri
12. Shri H.R. Oberai
13. Shri N.C. Jaiswal
14. Shri P.S. Joddar
15. Shri M. Narendra.

...Respondents

(Respondents No.3 to 15 All Asstt.  
Managers Telecom Factories through  
respondent No.2).  
( They are now working as Senior Engineers)

O R D E R

(Per Shri Kuldip Singh, Member (J))

The applicant in this OA has sought the following reliefs:

- i) The applicant be granted all the benefits granted to Shri D.R. Singh applicant in OA 668/90 on the basis of the judgement dated 25.11.1993.
- ii) Order dated 11.7.1988 (A-2(ii)) to the extent the juniors as mentioned in Para 4.8 superceded the applicant be quashed.
- iii) Order dated 14.9.1988 (A-2(ii)) reverting the applicant be quashed.
- iv) The respondents may be directed to hold yearly DPC for promotional quota for promotion to the post of Assistant Manager (Factories) for each of the years starting from 1982 to 1988, 1990 1991 and 1992 and if found fit they may be directed to promote the applicant as Assistant Manager (Factories) from the dates of the respective DPC's with seniority.
- v) Without prejudice to the reliefs i to iii the respondent No. 1 and 2 be directed to grant seniority to the applicant w.e.f. the AD-hoc promotees were replaced by another Ad-hoc promotees in the cadre of Asstt. Manager (Factories) that is from 19.9.1988.
- vi) Without prejudice to the reliefs sought above the applicant the regularise as Assistant Manager (Factories) w.e.f. 19.11.1990.
- vii) Consequential benefits such as promotion to the higher grades be granted.
- viii) Arrears be granted.

2. Facts in brief are that the applicant was working as an Assistant Engineer in one of the Telecom Factories of the respondents vide an order dated 4.9.1982 (Annexure A-5) the

applicant alongwith 3 other officers (including D.R. Singh) was promoted as an Assistant Manager on Ad-hoc basis.

3. Thereafter on 11.7.1988, seventeen Asstt. Managers were appointed on regular basis, five of them were even junior to applicant and had not even worked as ad-hoc Asstt. Manager, but the applicant's name was not there even in the panel. Rather on 14.9.1988 the applicant was reverred as an Asstt. Engineer. Reversion order includes 3 more persons who were promoted on regular basis and four more person who were promoted on Ad-hoc basis.

4. The applicant made a representation on 19.9.1989. However he was also given ad-hocpromotion for various spells during 3.4.1989 to 18.8.1993 before he was promoted on regular basis. But his representation was rejected by D.M. dated 13.5.1992. The other colleague of applicant Shri D.R. Singh a reserved category employee had filed a separate OA 668/90 and entitled as "Dayaram Singh V/s Union of India"and others which was decided on 25.11.1993 and Tribunal directed that D.R. Singh was entitled to be considered for promotion.

5. On the basis of judgement in case of D.R. Singh applicant also made a representation on 14.12.1993 and further again on 7.8.1995 when the review of Union of India against the order of the Tribunal was dismissed.

6. As such the applicant claims that since the vacancies of the post of Assistant Manager exists right from 4.9.1982 onwards so the applicant should be treated to be holding a regular post with effect from 4.9.1982 at least at par with D.R. Singh and he is entitled to be given the benefit of the said judgement and has asked for the reliefs as stated above.

7. The application is being contested. It is stated that the present application has nothing to do with the earlier OA of Shri D.R. Singh. It is also stated that since the applicant has grievances pertaining to year 1982 and the OA was filed in 1995, as such the same is grossly barred by time. Even otherwise the Tribunal has no jurisdiction to entertain the grievence alleged to have started in 1982.

8. It is further submitted by respondent that applicant was promoted to the grade of Assistant Manager on 4.9.1982 purely on ad-hoc basis without holding DPC and that too against the vacancy meant for direct recruits. Such vacancies always remain vacant due to nonjoining of candidates. As such the claim of the applicant for regular appointment with effect from 4.9.1982 is not justified.

9. It is further stated that the post of Asstt. Manager is a "Selection Post" and only a regular DPC can select and recommend candidates from the feeder cadre, who can be appointed on regular basis. Regular DPC could not be held as various cases were

pending. Department could hold DPC only in 1988 for the vacancies pertaining to the year 1983, 1984, 1986, 1987 and 1988. In the DPC applicant's name was also considered but he could not make up the grade and as such was not recommended for the post of Assistant Manager.

10. It is also stated that after the DPC person who were appointed on adhoc basis were also DPC approved officers who were subsequently regularised but no set of adhoc employees were replaced by another set of adhoc employees.

11. It is also stated that applicant's representation was examined and detailed reply was sent on 12.5.1992. The applicant has no case for promotion from 1982 or from any other date earlier to that when he was recommended by DPC and was appointed on regular basis with effect from 18.8.1993. So the OA should be dismissed.

12. We have heard the learned counsel for the parties and have gone through the record.

13. The applicant's main thrust of argument is based on the judgement of the case of Shri D.R. Singh. But we may mention this judgement does not help the applicant at all. It is an admitted case of the parties that the post of Assistant Manager is a " Selection Post" and as per Recruitment Rules only a candidate duly recommended by the DPC can be appointed to the said post. At the most the applicant can press the case of D.R. Singh to show the vacancy was available at the relevant time.

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14. But when after the Krishnam's case the department held DPC and considered year wise vacancies from 1983 to 1988, the applicant being in consideration zone was also considered. Since his name was not recommended he could not be regularised as Asstt. Manager. The applicant in this OA hasnot challenged the recommendations of the said DPC. In this OA he has simply asked for extending the benefits as granted to D.R. Singh as per judgement in OA 668/90.

15. But even as per judgement, the department were directed to consider applicant (D.R. Singh) for promotion on regular basis. The applicant was also considered in the earlier DPC held in 1988, if the applicant was not found fit to be recommended, the applicant without challenging the recommendation of DPC cannot ask for re-dressal of his grievance.

16. Besides the merits we also find the applicant had made representation dated 28.12.1991 which was rejected vide O.M. dated 12.5.1992, whereby the applicant was specifically informed that his case was considered by DPC, but DPC did not approve him for the grade of Assistant Manager. The applicant should have immediately approached the Tribunal by filing an OA. But the applicant remained silent and filed OA on 11.10.1995 after 3 years and 5 months which clearly goes to show that OA is barred by limitation as prescribed by Administrative Tribunals Act.

(m)

17. Thus we are of considered opinion that OA is barred by time as well <sup>and</sup> as it has no merits. The same is hereby dismissed. No costs.

Shanta

(Ms. Shanta Shastry)  
Member (A)

Kuldeep

(Kuldeep Singh)  
Member (J)

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