

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI**

ORIGINAL APPLICATION NO: 974/95

DATE OF DECISION: 1.9.1999

Shri R.R.Dubey Applicant.

Shri B.Dattamurthy. Advocate for
Applicant.

Versus

The Chief General Manager
-M&NL, Bombay and another.-----Respondents.

Shri V.S.Masurkar. Advocate for
Respondent(s)

CORAM

Hon'ble Shri D.S.Baweja, Member (A)

Hon'ble Shri S.L. Jain, Member(J)

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

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

~~(D.S. Bawali)
Member (A)~~

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO:974/95

WEDNESDAY the 1st day of SEPTEMBER 1999.

CORAM: Hon'ble Shri D.S.Baweja, Member(A)

Hon'ble Shri S.L.Jain, Member(J)

R.R. Dubey
Junior Telecom Officer
Office of the Divisional
Engineer Subscriber
Planning -IV, 6th floor,
Telephone House,
Dadar(West),
Bombay.

...Applicant.

By Advocate Shri B.Dattamurthy.

V/s

1. Chief General Manager
Mahanagar Telephone Nigam
Ltd. Telephone House,
Dadar(West), Bombay.

2. Union of India represented
by the Chairman,
Telecom Commission
Ministry of Communications
Sanchar Bhavan,
Ashok Road, New Delhi.

...Respondents.

By Advocate Shri V.S.Masurkar.

ORDER(ORAL)

{Per Shri D.S.Baweja, Member(A)}

This application has been filed by the applicant claiming
the following reliefs:

(a) To set aside the disciplinary proceedings
initiated against the applicant for
inordinate and unexplained delay.

(b) Consequently the respondents be directed to consider the applicant for promotion to the post of T.E.S. Group B from the date of his immediate juniors was promoted with all consequential benefits.

(c) To direct the respondents to allow the applicant to cross the efficiency bar from the due date.

2. The applicant ,as issued charge sheet on 7.6.1993. By order dated 3.6.1994, promotions and postings of Junior Telecom Officer's have been issued. The applicant's case is that he has not been granted promotion and as per this order his juniors have been promoted. The applicant thereafter represented for his non-promotion. Being aggrieved by this the present application has been filed.

3.. The respondents have filed written statement. The applicant has filed rejoinder for the same.

4. Heard Shri B.Dattamurthy counsel for the applicant and Shri V.S.Masurkar counsel for the respondents.

5. The applicant has filed M.P. 394/99 where he has brought out the subsequent developments in the matter. The applicant has stated that in the disciplinary case against the applicant, he has since been exonerated of all the charges. The applicant has also been subsequently promoted in 1998. Therefore the only

relief which the applicant now claims is with regard to his promotion during the year 1994 when he was due and his juniors have been promoted.

6. The respondents have filed written statement in 1995 when the disciplinary proceedings were still going on. The respondents however have not brought out in the written statement whether the applicant's case was kept in sealed cover. In view of the fact that the disciplinary proceeding have been concluded and the applicant has been exonerated of all the charges, we are of the view that he becomes entitled for promotion as due to him in 1994 when his juniors have been promoted. The learned counsel for the applicant also brought to our notice the recent decision dated 9.11.1998 in OA 135/98 where the similar issue has been gone into and the relief has been allowed. Applicant submits that the applicant in OA 135/98 was also charge sheeted alongwith the applicant and he was also overlooked promotion in 1994. We have gone into this order and find that on the facts the present OA is identical to OA 135/98 and therefore the ratio of the decision in OA 135/98 applies on all fours to the present case. In view of this the present OA can also be disposed of with the similar directions as in OA 135/98.

7. In the result, the OA is allowed with a direction to the respondents to hold Review DPC and to consider the case of the applicant for promotion, if he found suitable then to promote him from the date his immediate junior was promoted with all consequential benefits.

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If the applicant is not found fit, the applicant will be suitably advised. As regards the efficiency bar, the matter will be considered by the Review DPC and if found fit to cross the efficiency bar, then the applicant will be entitled to all consequential benefits as per rules. The respondents shall comply with the order within a period of four months from the date of receipt of copy of this order. No order as to costs.

S.L.JAIN
(S.L.JAIN)
MEMBER(J)

D.S.BAWEJA
(D.S.BAWEJA)
MEMBER(A)

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