

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 609/98

Date of Decision: 15.2.1999

Shri S.N. Thite Applicant.

Shri H.Y. Deo Advocate for
Applicant.

Versus

Union of India and others. Respondent(s)

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

CORAM:

Hon'ble Shri. Justice R.G.Vaidyanatha, Vice Chairman

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

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

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


(R.G. Vaidyanatha)
Vice Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH 'GULESTAN' BUILDING NO:6
PRESCOT ROAD, MUMBAI:1

Original Application No. 609/98

Monday the 15th day of February 1999.

CORAM : Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman
Hon'ble Shri D.S.Baweja, Member (A)

S.N. Thite
Residing at
M-34/2464, MHB Colony,
Yerawada, Pune.

... Applicant.

By Advocate Shri H.Y. Deo

V/s.

Union of India through
The Chairman
Telecom Commission,
Sanchar Bhavan,
Ashoka Road,
New Delhi.

The Chief General Manager
Maharashtra Telecom Circle
8th floor,
Fountain Telecom Building II
Mahatma Gandhi Road,
Mumbai.

The Principal General Manager
Pune Telecom District
Telephone Bhavan,
Bajirao Road,
Pune.

... Respondents.

By Advocate Shri V.S.Masurkar.

O R D E R (ORAL)

(Per Shri Justice R.G.Vaidyanatha, Vice Chairman)

This is an application filed by the applicant seeking direction to the respondents to promote him and for consequential reliefs. The respondents have filed reply opposing the application. Since the point involved is short, by consent, we are disposing of the application at the admission stage. We have heard the learned counsel for both sides on merits.

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2. The applicant who is junior Telecom Officer in Pune Telecom came to be promoted as Sub-Divisional Engineer(SDE) by order dated 27.5.1994. A direction was given by the Department of Telecommunications that all the promotees should join the promoted post within 40 days failing which the orders of promotion in respect of such officers shall be cancelled without any further notice. It appears that the applicant had some difficulty in accepting the promotion as it is. He has therefore made some representation for change of posting on promotion. The applicant's case is that the local officer did not relieve him to join the new post after promotion. After making number of representations and not succeeding, the applicant has approached this Tribunal praying for a direction to the respondents to promote him as SDE and for further consequential reliefs.

3. The respondents in their reply have stated that since the applicant did not comply with the order of promotion in getting himself relieved and joined the new post within 40 days, his promotion order has been cancelled. The respondents have stated that the order of promotion has come to an end and it cannot be enforced.

4. After hearing both the sides and perusal of the pleadings and the documents we find that the applicant did not accept the promotion as it is and went on making representations for change of place of posting. It is also seen that the local office did not give him relieve order, which may be gathered from one or two letters produced by the respondents. There is nothing to show that the applicant made written request for getting

relieved and whether that request has been turn down by the immediate officer,

5. Whatever the case may be the applicant did not join the post and went on making representation. The respondents by letter dated 3.3.1997 stated that the posting order on promotion of the applicant stands cancelled. It is also mentioned that the official can be now promoted on the same order. Therefore, it is seen that the respondents have not denied the promotion to the applicant.

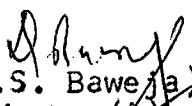
6. In the circumstances of the case though the applicant has been regularly promoted and there is some delay on the part of the applicant in not complying with the order of promotion. The applicant has given some representation for change of posting and the local officer has recommended that he should be retained at Pune. Therefore we feel that the respondents should be directed to enforce the order of promotion dated 27.5.1994 and give the posting to the applicant. Since the order of promotion has been issued by the Head Office, we direct respondent No.1 to issue a fresh order of promotion to the applicant along with posting order.

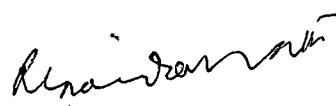
If such an order is passed, it is the duty of the applicant to obey and get himself relieved and join the new post within the time permissible under the rules.

7. The learned counsel for the applicant made a submission that the applicant should get the seniority from the date his junior has joined the promotional post in pursuance of the order dated 27.5.1994. The learned counsel for the

respondents strongly opposes the same. We feel that at this stage we should not express any opinion on the question whether the applicant is entitled to seniority or not. After joining the new promotional post the applicant may make representation to the Competent Authority seeking his proper place in the seniority and it is for the Competent Authority to dispose of the application according to law. In case any adverse order is passed by the Competent Authority he may challenge the same according to law.

8. In the result the O.A. is allowed. The respondent No.1 is directed to issue fresh promotion order with place of posting to the applicant as SDE in pursuance of earlier order of promotion dated 27.5.1994. The question of seniority is left open. Respondent No.1 is directed to comply with the order within a period of two months from the date of receipt of this order. In the circumstances of the case there will be no order as to costs.


(D.S. Bawejia)
Member (A)


(R.G. Vaidyanatha)
Vice Chairman

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