

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO: 797/98

DATE OF DECISION: 10.9.1999

Shri P.S.Durve \_\_\_\_\_ Applicant.

Shri B.Dattamurthy. \_\_\_\_\_ Advocate for  
Applicant.

Versus

Union of India and others \_\_\_\_\_ Respondents.

Shri S.S.Karkera \_\_\_\_\_ Advocate for  
Respondent(s)

CORAM

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

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

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to  other Benches of the Tribunal?

  
(D.S. Bawej)  
Member (A)

NS

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO:797/98

FRIDAY the 10th day of SEPTEMBER 1999.

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

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

P.S.Durve  
Sub Divisional Engineer,  
Duct Maintenance East IV,  
Office of Executive Engineer(Civil)  
Duct Construction, East VI floor,  
Charai Telephone Exchange Building  
Opposite Ganesh Talkies,  
Charai, Thane. ....Applicant.

By Advocate Shri B.Dattamurthy.

V/s

1. Union of India  
represented by the  
Secretary,  
Department of  
Telecommunications,  
Sanchar Bhavan,  
Ashoka Road,  
New Delhi.
2. Chief General Manager  
Mahanagar Telephone Nigam  
Limited, Telephone House,  
V.S.Marg., Dadar(W)  
Mumbai. ....Respondents

By Advocate Shri S.S.Karkera.

ORDER(ORAL)

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

This is an application filed seeking the following  
reliefs:

- (a) direct the respondents to consider the promotion of the applicant to TES Group 'B' from the date of promotion of his next junior with all consequential benefits such as pay, seniority etc.

(b) direct the respondents to consider the case of the applicant for grant of lateral promotion from the due date i.e. from 5.1.1991 with all consequential benefits.

2. The respondents have filed written reply. The applicant has filed rejoinder for the same. Thereafter the respondents has filed sur-rejoinder.

3. Heard Shri B.Dattamurthy for the applicant and Shri S.S.Karkera for the respondents.

4. The learned counsel for the respondents during the hearing brought out that the applicant has already been given lateral promotion with effect from 1.5.1991 as per order dated 16.7.1999. The learned counsel for the applicant accepts this position. In view of this relief (b) referred to above does not survive as the same has been allowed by the respondents.

5. As regards the relief (a) regarding the promotion to TES Group 'B' the respondents in the sur-rejoinder in para 9 have brought out that the applicant has been considered for promotion by the DPC held in 1998 and he has since been promoted vide order dated 21.10.1998 ( Exhibit R-1). The only issue which remains now is the claim of the applicant for promotion from the has date of his immediate junior. In para 9 of the Sur-rejoinder respondents have further brought out that the applicant was considered for promotion in the year 1994, but his case was kept

in' sealed cover ' in view of the pending disciplinary proceedings. Disciplinary proceedings have been concluded and the applicant has been imposed the penalty of 'censure ' and therefore the sealed cover could not be opened. The applicant has been considered for promotion after imposition of the penalty in October 1998. In view of this submission of the the respondents, the applicant is not entitled for promotion from 1994 when his junior was promoted and relief (a) claimed is therefore is not tenable.

5. In the result of the above as the reliefs prayed for by the applicant have already been allowed, the OA does not survive and accordingly the OA stands disposed of No order as to costs.

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

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

NS