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CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,  
JAIPUR.

O.A.NO. 845/89 : Date of decision: 15.7.93

Sumer Singh Nirvan : Applicant.

Mr. R.R.Kumawat : Counsel for the applicant.

VERSUS

Union of India & Ors. : Respondents.

Mr. Praveen Balvada : Counsel for the respondents.

CORAM:

HON'BLE MR. B.B.MAHAJAN, ADMINISTRATIVE MEMBER

HON'BLE MR. GOPAL KRISHNA, JUDL MEMBER

PER HON'BLE MR. GOPAL KRISHNA, JUDL MEMBER

Applicant Sumer Singh Nirvan has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for modifying the order dated 21.1.89 to the extent that against the name of the applicant at serial no. 8 the date of promotion is to be inserted as 13.9.86 instead of 5.6.88 and directing the respondents to pass an order to the effect that the applicant is entitled to get his promotion to the post of Higher Grade Telecom Office Assistant w.e.f. 13.9.86 with all consequential benefits.

2. We have heard the learned counsel for the parties and perused the records.

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3. The applicants case is that he was initially appointed as Telecom Office Assistant on 5.6.68 and confirmed on the said post in the month of March, 1969. Thereafter disciplinary proceedings under Rule 14 of the CCS (CCA) Rules, 1965, were initiated against the applicant vide memo dated 3.9.75. After the conclusion of the enquiry the disciplinary authority vide his order dated 12.9.79 imposed the penalty of reduction to a lower stage in the time scale of pay Rs. 260-8-300EB-8-340-10-360-12-420-EB- 12-480 at the stage of Rs. 260/- for a period of five years. An appeal against this order of punishment was made but the same was rejected vide an order dated 12.9.79. Thereafter, a show-cause notice proposing to enhance the punishment was issued by Member (A) Ministry of Communication P & T Board vide communication dated 9.8.84 to which the applicant had submitted his reply but the Member (A) P&T Directorate, New Delhi passed an order dated 12.11.84 whereby the applicant was given the punishment of reduction to the minimum of the time scale for a period of 7 years with the direction that during the period of reduction, the applicant will not earn any increments of pay and this reduction will have the effect of postponing future increments of pay. The applicant's contention is that since the period of punishment was over on 13.9.86, he should have been given promotion as Higher Grade Telecom Office Assistant, w.e.f. 13.9.86 under the one time bound promotion scheme in accordance with rules.

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It is also contended by the applicant that Shri H.K.Pat~~a~~ a similarly situated incumbent was promoted to the said post of Higher <sup>Grade</sup> Telecom Office Assistant with effect from the date when his punishment period had come to an end and as such there was discrimination made in his case.

4. The respondents contested the application on the ground that the scheme of one time bound promotion on completion of 16 years of service envisages promotion of only those persons who are adjudged suitable for such promotion <sup>by</sup> the Departmental Promotion Committee. The applicant was awarded punishment on 12.9.79 as a result of which his pay was reduced to a lower stage of Rs. 260/- in the time scale of Rs. 260-8-300-EB-8-340-10-360-12-420-EB-12-480 for 7 years. However, on completion of 16 years of service the applicant's case for promotion was considered by the Departmental Promotion Committee on 24.12.85 but he was not found fit for promotion under the aforesaid scheme due to his unsatisfactory record of service. The applicant was again considered for promotion by the Departmental Promotion Committee but he was not found fit for promotion.

5. The applicant cannot claim promotion after putting in 16 years of service merely on the ground of the expiry of the period of punishment awarded to him by the disciplinary authority for grave

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misconduct. The applicant was merely entitled to consideration for promotion on expiry of this period and his case was duly considered by the Departmental Promotion Committee. While considering an incumbent for promotion his entire service record has to be taken into consideration and if the Departmental Promotion Committee found the applicant not suitable for promotion with effect from an earlier date due to the penalty awarded to him and denied promotion to him such denial is neither illegal nor unjustified. The applicant has already been promoted in the next Higher Grade in the pay scale of Rs. 1400-2300 with effect from 5.6.88 vide an order dated 21.2.89 (Annexure A-1). The applicant's contention that since Shri H.K.Patak was also awarded punishment and after the period of punishment was over, he was promoted to a Higher Grade, the applicant should have been given the same treatment, has no force, because the Departmental Promotion Committee after considering the case of Shri H.K.Patak had found him fit for promotion in the higher grade. The applicant was unquestionably considered for promotion to a higher grade and as he was not found suitable for promotion with effect from any earlier date he is not entitled to any relief claimed by him.

6. We, therefore, find no merit in this O.A. and the same is accordingly dismissed with no order as to costs.

G.Krishna  
(GOPAL KRISHNA)  
Judl.Member

B.B.MAHAJAN  
Adm.Member

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