

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Decision: 25.11.1993.

OA 1117/92

K.L. SHARMA

... APPLICANT.

v/s.

UNION OF INDIA & ANR.

... RESPONDENTS.

CORAM:

HON'BLE MR. GOPAL KRISHNA, MEMBER (J).
HON'BLE MR. O.P. SHARMA, MEMBER (A).

For the Applicant ... SHRI R.N. MATHUR.

For the Respondents ... NONE.

PER HON'BLE MR. O.P. SHARMA, MEMBER (A).

The applicant, K.L. Sharma, has filed this application u/s 19 of the Administrative Tribunals Act, 1985, praying that directions may be issued to the respondents that the applicant is entitled to get promotion in Junior Administrative Grade of Indian Telecommunication Service Group 'A' on adhoc or on substantive basis w.e.f. 13.6.92 or thereafter. He has sought further direction to the respondents that they should consider his name for promotion to the Junior Administrative Grade of the above service and for that purpose the disciplinary proceedings initiated against the applicant, which have already been quashed by the Tribunal, shall not be taken into account. A further direction has been sought that in case the then General Manager, Telecommunication, Rajasthan Circle, Shri J.P. Garg has not forwarded the Annual Performance Appraisal Report Dossiers (APARs) of the applicant for the last four years, the name of the applicant should be considered on the basis of the earlier APARs dossiers or the present General Manager may be directed to fill in the APARs of the applicant.

2. The case of the applicant is that he has been working in the Senior Time Scale of the Indian Telecommunication Service since September, 1980. He claims to be eligible and qualified to be promoted to the Junior Administrative Grade of the said service, to which the promotions were based on seniority-cum-merit. The respondents convened a DPC for promotions to the post of Junior Administrative Grade in June, 1992 and vide order dated 18.6.92 promotion orders were issued to the Junior Administrative Grade in favour of certain officers but the applicant was not granted promotion by the said order presumably on the ground that disciplinary proceedings were pending against him. The disciplinary proceedings which were initiated against the applicant were quashed by the Tribunal vide order dated 28.7.92. According to the applicant, after the aforesaid order of the Tribunal, the respondents should have reviewed the DPC proceedings or should have opened the sealed cover, in case the sealed cover procedure was adopted, and the applicant should have been given promotion to the Junior Administrative Grade. However, the respondents did not do so. Instead the respondents issued another order of promotion to the Junior Administrative Grade in September, 1992 (Annexure A-1) in which also the name of the applicant did not figure. The respondents have given promotion to persons who were junior to the applicant. The applicant's Staff number is 1197, whereas the 1st person granted promotion by order dated 18.9.92 (Annexure A-1) has Staff No. 2109.

3. According to the applicant, the promotion order of September, 1992 (Annexure A-1) issued after the disciplinary proceedings against him had been quashed by the Tribunal. As per his knowledge, Shri J.P. Garg, the then General Manager, Telecommunication, Rajasthan Circle, did not forward the APARs

of the applicant consecutively for four years from 1988-89 to 1991-92. This could be a reason by the applicant's name being not considered for promotion to the Junior Administrative Grade. The applicant represented on 19.9.92 seeking consideration of his name for promotion. He has, however, not received any reply so far.

4. No reply has been filed on behalf of the respondents in spite of service of notice on them, nor has anybody appeared on behalf of the respondents. We have heard the learned counsel for the applicant.

5. Once the disciplinary proceedings against the applicant have been quashed, it has to be taken that no disciplinary proceedings were deemed to be pending against him on the date when he was ~~not~~ eligible for consideration for promotion to the Junior Administrative Grade. In other words, he should also have been considered for promotion at the time or on the date on which his juniors were considered for promotion. If in view of the pendency of the disciplinary proceedings against him, the sealed cover procedure was adopted, the sealed cover should be opened and the result of the deliberations of the DPC should be taken into account for the purpose of his promotion. If, however, the sealed cover procedure was not adopted, a review DPC should be convened for considering the name of the applicant for promotion on the relevant dates referred to above. If the APARs for the period from 1988-89 to 1991-92 were not available, the respondents shall take all necessary steps to obtain complete APARs of the applicant for the above period for the purpose of convening the review DPC. If ^{if} ~~on~~ a review of the case of the applicant by the DPC, he is found fit for promotion, he should be granted promotion w.e.f. the date from which persons junior to him were granted

promotion, with consequential benefits. The respondents shall take necessary action in the light of the above directions within a period of four months from the date of receipt of a copy of this order.

6. The OA is allowed as above, with no order as to costs.

(O.P. SHARMA)
MEMBER (A)

Gopal Krishna
(GOPAL KRISHNA)
MEMBER (J)