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CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH:
AT HYDERABAD.

O.A.NO.296 OF 1996.

DATE OF ORDER:- 27th NOVEMBER, 1997.

BETWEEN :

A. SUBBA RAO

... APPLICANT

AND

1. Union of India, represented by
the Secretary to the Government of India,
Department of Telecommunications,
Sanchar Bhavan, New Delhi-110001.
2. The Chairman, Telecom Commission,
Sanchar Bhavan, New Delhi-110001
3. Member(Services), Telecom Commission
and Director General, Department of
Telecommunications, New Delhi-110001.
4. Union Public Service Commission,
Jodhpur House,
Shajahan Road,
New Delhi-110001
represented by its Secretary.... RESPONDENTS

COUNSEL FOR THE APPLICANT - PARTY-IN-PERSON

COUNSEL FOR THE RESPONDENTS-MR. N.V.DEVARAJ, SrCGSC

CORAM :

HONOURABLE MR. R. RANGARAJAN, MEMBER (ADMINISTRATIVE)

HONOURABLE MR. B.S.JAI PARAMESHWAR, MEMBER (JUDICIAL)

In

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O R D E R.

(Per Hon. Mr.B.S.Jai Parameshwar,Member(Judicial))

1. Heard Mr. A.Subba Rao, the party-in-person and Mr.N.R.Devaraj, the learned counsel for the respondents.

2. This is an application under Section 19 of the Administrative Tribunals Act. The application was filed on 29.2.1996.

3. The facts giving raise to this O.A. may, in brief, be stated thus :-

(a) The applicant being successful in the Engineering Services Examination conducted by the UPSC during the year 1972, was recruited to the Telegraph Traffic Service(TTS) Group B in May, 1974. In 1982 he was promoted to the TTS Group A Grade II. The applicant claims that he became eligible for promotion to TTS Group A Grade I against the post which fell vacant in 1983. The scale of pay of the TTS Group A Grade II is Rs.1100-1400/- and the scale of pay of the TTS Group A Grade I is Rs.1300-1700/-. The applicant is governed by the Telegraph Traffic Service, Class I Recruitment Rules, 1964. The same was published in the Official Gazette on 5.1.1965 (Annexure 5 at page 23 of the O.A.).

(b) The TTS Group A consists of two grades-Grade I and Grade II. For promotion from Grade II to Grade I no minimum service is required. The promotion will be made on the basis of availability of posts in Group A Grade I. From Group A Grade I the next promotional grade is Junior Administrative Grade (JAG). For a promotion from Group A Grade I to JAG, minimum 3 years of service is required.

(c) The applicant complains inaction on the part of the respondents to review the recruitment rules and

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submits that it was mainly due to the fact that the department was contemplating merger of TTS and ITS cadres (Annexure-7).

(d) The applicant submits that on 14.6.1987 six officers including himself were promoted from TTS Group A Grade II to Group A Grade I in the scale of pay of Rs.1300-1700/-(Annexure-2 at page 18 of the OA). The applicant worked in TTS Group A Grade I(a down graded post) as the Chief Superintendent, Central Telegraph Office, Calcutta, from 14.8.1986 to 2.11.1989. The post was upgraded. The applicant was working in the JAG on adhoc basis from 3.11.1989 at Calcutta. He was transferred to the Andhra Pradesh Circle during February, 1991. He was promoted to JAG on regular basis vide Order No.50-2/94-TSP dated 9.11.1995 effective from 11.9.1995.

(e) The applicant complains that there was inordinate delay in considering his promotion for higher post. His grievance is that the DPCs for regularisation were not conducted or not held punctually; that the DPC was held without following the extant rules; that though the Telecom Commission approved in 1984 regarding merger of TTS Group A with ITS Group A (Annexure-9), administrative orders were not issued till 1.4.1994 (Annexure-10 at page 50 of the OA); that the modalities for merger have not been worked out or finalised; that the delay for his promotion from TTS Group A Grade II to TTS Group A Grade I and from TTS Group A Grade I to JAG was not justifiable and was deliberate; that his promotions as the Chief Superintendent, Central Telegraph Office, Calcutta from 14.8.1986 in TTS Group A Grade I and in JAG were on ad hoc basis; that the combined

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seniority list of TTS Group A Officers and ITS Officers has not been prepared; that on 27.7.1995 he opted for merger with ITS Group A; that he submitted a representation dated 3.8.1995 to that effect; that the department by its order No.50-11/94-TSP(PT-II) dated 27.10.1995 (Annexure-11 at page 59 of the OA), had informed him that the Non-Functional Selection Grade (NFSG) in JAG was admissible to the officers who were appointed to JAG on regular basis and that the applicant could not be considered for NFSG as on that date he was working in JAG on ad hoc basis. Hence he has filed this O.A. for the following reliefs:-

- (i) To consider regularisation of the service of the applicant in JAG of TTS with effect from 14.8.1986 with all benefits, such as, seniority, payment of salary and allowances or in the alternative to regularise his service in JAG Grade at least with effect from 3.11.1989(Annexure-3 at page 20 of the OA); and
- (ii) To grant selection grade in JAG from the date he would become eligible for such selection grade.

4. The respondents have filed their counter more or less admitting the particulars of service of the applicant and contending that though the applicant was promoted on ad hoc basis in 1989, he was not reverted till the time he was promoted on regular basis; that while working on ad hoc basis in JAG cadre at Calcutta, he was transferred to Hyderabad under CGM,AP Circle during 1981; that the delay was mainly because of consultation with both the Associations, namely, TTS and ITS; that the posts of JAG were again down graded to TTS Group A Grade I and six officers were promoted against the down graded vacancies; that subsequently on

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completion of three years in TTS Group A Grade I, the applicant along with others was again considered for promotion to JAG in 1981 and he was promoted and posted as the Director(TT), Calcutta, on ad hoc basis; that immediately on completion of three years of service in TTS Group A Grade I, the applicant was promoted to JAG on ad hoc basis; that the cases of promotion of these officers were taken up with the UPSC in November, 1989 itself and the same were indicated to the UPSC as one against 1987 and five against 1989 (Annexure-2); that due to long correspondence between the UPSC and the department, there was delay in holding the regular DPC; that finally in November, 1995 the UPSC agreed to the proposal; that merger of TTS with ITS involved concurrence from both the Services; that there were differences within the two Associations of both services; that there was some delay in the process of merger; that no service conditions were involved and promotion was given subject to availability of vacancies in TTS Group A Grade I; that even in case the process of merger is concluded, the merger will take place as per availability of vacancies and will not be based on regular promotion to JAG cadre; that when the DPC held on 11.9.1995 the date of regular promotion of the applicant could not be earlier to that date; that the applicant has been promoted to the next higher post immediately on availability of vacancies in the cadres; that as regards the claim of the applicant for promotion to the Selection Grade, it is submitted that as per the DOT instructions in OM No.22/3/90-CRD dated 16.7.1990 the Non-Functional Selection Grade can be given to Group A officers of the organised service who have completed 14 years of service



in Group A; that since TTS is not an organised service, the same cannot be made applicable to the applicant; that however, after his merger with ITS Group A, the same will be considered after modification of the Recruitment Rules; that there are no merits in this O.A. and the O.A. be dismissed with costs.

5. The applicant has filed his reply and also various documents in support of his contention that the delay in promoting him to the next higher grade was deliberately done because of contemplation of merger and non-holding of the DPCs punctually.

6. The applicant has opted for merger with ITS Service. It is submitted that the process of merger of TTS with ITS is under final stages. It is stated that a combined seniority list of officers of both the services has to be prepared and then the department has to consider the case of the applicant for promotion to the selection grade. The applicant is not in a position to state as to where his position would be in the merger services (ITS Service). Without the factual basis, this Tribunal cannot give any relief to the applicant. No doubt, the applicant claims certain reliefs right from 1989 i.e. 3.11.1989. Unless the department completes the process of merger and prepares an integrated seniority list and frames the Recruitment Rules for promotion, the applicant cannot claim that he is eligible for promotion to the selection grade from 3.11.1989.

6. The other ground taken by the applicant is that the DPCs were not held punctually. In the case of H.R. Kasturirangan (Civil Appeal Nos. 3891-3894 of 1993, dated 28.7.1993 the Hon'ble Supreme Court has been pleased to observe that since not holding a meeting for

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select list every year is a dereliction of statutory rules, it must be satisfactorily explained by the State Government. The above view was affirmed by the apex Court in N.S. Talwar's case and also in the case of Syed Khalid Rijvi Vs. Union of India, reported in 1993 (Supp) ATJ 91.

7. The explanation offered by the respondents is that there was difference of opinion between the Associations of ITS officers and TTS officers for the process of merger. That may not be a satisfactory explanation on the part of the department for not holding the DPCs. Further they stated that even though they sent the proposals for promotion of six officers to the selection grade in November, 1989 to the UPSC, there was delay on the part of the UPSC. We feel that the said submission is also not justifiable. It is curious to note that the UPSC slept over the matter till 1995 though correspondences started between the department and the UPSC as early as 1989. Considering all these circumstances, the only direction that can be given by us in this O.A. is that the respondents must expedite the process of merger of TTS with ITS ^{if it is essential} prepare an integrated seniority list of officers so merged and to frame ^{in accordance with law} necessary rules ~~without~~ ^{detriment} to the promotional chances of the officers so merged.

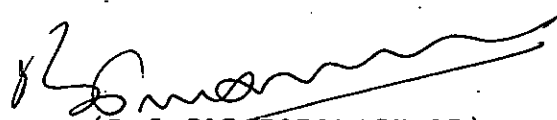
8. We have no doubt in our mind that the department will make its earnest efforts to the above aspects taking into consideration the interest of the officers and the department. There must be cordiality between the officers and the department for smooth functioning of the department. We feel it proper to allow reasonable time limit for the respondents to complete the process of merger, preparation of an integrated seniority list of

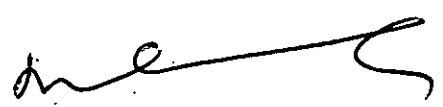
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both the TTS and ITS officers and for framing the necessary rules.

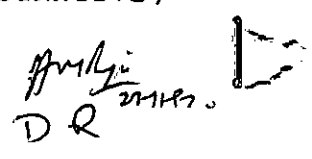
9. Hence we feel it proper to give the respondents time upto 30th June,1998.

10. With the aforesaid observations, the O.A. is disposed of. No order as to costs.


(B.S. JAI PARAMESHWAR)
MEMBER(JUDICIAL)
27.11.97


(R. RANGARAJAN)
MEMBER(ADMINISTRATIVE)

DATED THE 27th NOVEMBER, 1997.


D R 27.11.97

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Copy to:

1. The Secretary to Govt. of India, Dept. of Telecommunications, Sanchar Bhavan, New Delhi.
2. The Chairman, Telecom Commission, Sanchar Bhavan, New Delhi.
3. Member (Services), Telecom Commission and Director General, Dept. of Telecommunications, New Delhi.
4. The Secretary, Union Public Service Commission, Jodhpur House, Shajahan Road, New Delhi.
5. One copy to Mr. A. Subba Rao, ~~Adxxxxxx~~ Party in Person, Deputy General Manager, (YT), A.P. Telecom, Deersanchar Bhavan, Hyderabad.
6. One copy to Mr. N. B. Devraj, Sr. CGSC, CAT, Hyderabad.
7. One copy to HBSJP, M(J), CAT, Hyderabad.
8. One copy to D.R(A), CAT, Hyderabad.
9. One duplicate copy.

YLKR

G. K. S.
7/12/97

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TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :
M (J)

Dated: 27/11/97

ORDER/JUDGMENT

M.A/R.A/C.A.NO.

in

O.A.NO. 296/96

Admitted and Interim Directions
Issued.

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default

Ordered/Rejected

No order as to costs.

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II Court

केन्द्रीय प्रशासनिक न्यायिकरण Central Administrative Tribunal ब्रेच/DESPATCH - 2 DEC 1997 हयराबाद न्यायपीठ HYDERABAD BENCH
