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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.NO. 593/97

Date of Order : 16.9.98

BETWEEN :

D.Purushottam Rao. .. Applicant.

AND

1. The Divisional Engineer,
A/T Acceptance and Testing (SWG)
Telecom Circle, C.T.O. Compound,
Secunderabad.
2. The Chief General Manager, Telecom,
A.P.Circle, Hyderabad.
3. The Chairman, Telecom Commission,
New Delhi. .. Respondents.

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Counsel for the Applicant .. Mr.K.VenkateswaraRao

Counsel for the Respondents .. Mr.V.Bhimanna

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CORAM :

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUD L.)

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O R D E R

X As per Hon'ble Shri R.Rangarajan, Member (Admn.) X

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Mr.T.V.V.S.Murthy for Mr.K.Venkateswara Rao, learned
counsel for the applicant and Mr.V.Bhimanna, learned standing
counsel for the respondents.

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2. The applicant ~~was~~ became eligible for promotion under One Time Bound Promotion scheme from 1.12.94. He was not promoted.

3. Aggrieved by the above he has filed this OA to declare ^{he} that the ~~applicant~~ is entitled for promotion under OTBP scheme on completion of 16 years of service, with all consequential benefits such as seniority, pay and allowance and other attendant benefits.

4. In the reply it has been ~~clearly~~ stated that the applicant has been working as Telecom Office Assistant since 1.12.78. He had become eligible for promotion under OTBP scheme on 1.12.94. The applicant was placed under suspension from 9.12.94 in view of the proposed disciplinary proceedings to be initiated against him. He was served with a charge sheet on 3.1.95 under Rule 14 of CCS (CCA) Rules 1965 and he was punished by withholding of one increment for a period of 5 years with cumulative effect by order dated 12.12.95. It is also stated that the case of the applicant for OTBP promotion for the year 1994 could not be considered by the DPC due to non-availability of the Confidential Reports. Hence his case was considered by the DPC on 1.1.95 when the charge sheet was pending. Hence he was not promoted under OTBP scheme.

5. The applicant was free of charges on the date when he ~~is~~ became eligible for promotion under OTBP i.e. on 1.12.94. Mere contemplation of initiating disciplinary proceedings is not a reason to deny his promotion. The disciplinary proceedings was deemed to have been initiated w.e.f. 9.12.94 when he was suspended. That date is later than 1.12.94 when he became eligible for promotion under OTBP scheme. Earlier to 1.12.94 the DPC could not decide his case due to non-availability of CRs. Non-availability of CRs is not the fault of the applicant. Hence the respondents failed to consider his case for promotion against OTBP scheme earlier to 1.12.94. Due to the delay of the respondents, his case was considered on 1.1.95 when the charge sheet was pending. From the above appreciation of the case it is evident that it is the delay caused by the respondents to consider his case for promotion either on 1.12.94 or earlier when he was free of charges is the main reason which resulted in depriving him of the promotion on the due date. Hence the applicant cannot be denied the promotion under OTBP scheme w.e.f. 1.12.94 provided he fulfills the other conditions for promotion under that scheme. The respondents are at liberty to process his charge sheet and award him punishment in accordance with the law in the higher grade if they so desire.

6. Hence the following direction is given:-

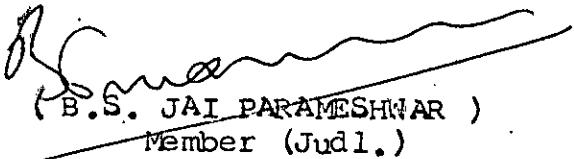
The case of the applicant should be reviewed for promotion w.e.f. 1.12.94 under the OTBP scheme. If he is found fit he should be promoted with effect from that date. The charges levelled against him may be finalised even in the higher scale

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if the respondents desire to proceed with the charge sheet.

7. With the above direction the OA is disposed of.

No costs.


(B.S. JAI PARAMESHWAR)

Member (Judl.)

16.9.98

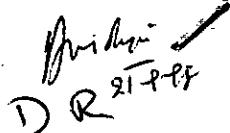

(R. RANGARAJAN)

Member (Admn.)

Dated : 16th September, 1998

(Dictated in Open Court)

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Copy to:

1. The Divisional Engineer, A/T Acceptance and Testing (SWG), Telecom Circle, C.T.O. Compound, Secunderabad.
2. The Chief General Manager, Telecom, A.P. Circle, Hyderabad.
3. The Chairman, Telecom Commission, New Delhi.
4. One copy to Mr. K. Venkateswara Rao, Advocate, CAT, Hyderabad.
5. One copy to Mr. V. Bhimanna, Addl. CGSC, CAT, Hyderabad.
6. One copy to D.R(A), CAT, Hyderabad.
7. One duplicate copy.

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93/10/98

(A)

III COURT

TYPED BY
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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

AND

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

DATED: 16/9/88

ORDER/JUDGMENT

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

C.A.NO. 593/87 ⁱⁿ

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

