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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 1391/97

Date of Order : 22.3.99

BETWEEN :

S.Penchalaiah

-- Applicant.

AND

1. The Chief General Manager,  
Telecom, A.P.Circle, Hyderabad.

2. The Chairman, Telecommunications,  
New Delhi. .. Respondents.

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Counsel for the Applicant

.. Mr. K.Venkateswara Rao

Counsel for the Respondents

.. Mr. J.R.Gopala Rao

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CORAM :

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

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

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O R D E R

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

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Mr. K.Venkateswara Rao, learned counsel for the applicant and Mr. J.R.Gopala Rao, learned standing counsel for the respondents.

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2. The applicant in this OA while working as Accounts Officer in the scale of pay of Rs.2375-3500 was to be promoted as Senior Accounts Officer in the scale of pay of Rs.2200-4000 in terms of Memo No. F.6 (82)-IC/91, dated 22.9.92 (A-5). The applicant was not given the scale of pay of Rs.2200-4000. Hence he submitted a representation dated 10.4.96 which is enclosed as Annexure-4. It is stated that the said representation is still pending. In the promotion order issued by the impugned memo dated 26.10.95 (A-1) for granting the scale of pay of Rs.2200-4000 the name of the applicant is not included.

3. This OA is filed to set aside the impugned order dated 26.10.95 so far it does not include the name of the applicant in terms of Memo No. F6 (82)-IC/91, dated 22.9.92 by holding the same as arbitrary, illegal and discriminatory and for a consequential direction to the respondents to grant him the scale of pay of Rs.2200-4000 on the basis of the memo dated 22.9.92.

4. In the reply it is stated that the scale of pay of Rs.2200-4000 is granted to an employee working as Accounts Officer after such employee had put in 3 years of service as Accounts/Audit Officer and is decided on the basis of the "seniority-cum-fitness". The applicant was given the adverse confidential report for the year 1991-92 and also for the year 1992-93. The adverse confidential report for the year

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1992-93 was informed to the applicant which was received by him on 1.6.92 (A-R-1). In view of the above adverse C.R. the applicant was not found fit for granting him the scale of pay of Rs.2200-4000 and hence his name was not included in the promotion list.

5. The main contention of the applicant is that the confidential report for the year 1992-93 cannot be taken into account as the memo for granting ~~him~~ promotion was issued on 22.9.92. However he submitted that he is eligible for promotion only in the year 1994. If so the confidential report of 1992-93 has to be taken note of for promoting him in the year 1994. Hence the contention that his confidential report of 1992-93 cannot be taken note of is not in accordance with the rules. Hence rejected.

6. The applicant submits that he had filed a representation against the adverse entry entered in his ACR of 1992-93 which is not yet disposed of. But the applicant has not chosen to challenge the adverse report if the entries are not expunged on the basis of his representation. Hence he cannot now ask for disposal of the representation against the adverse remarks of 1992-93 and then consider his case for promotion. Such a request is a belated one and cannot be granted.

7. The learned counsel for the applicant submits that the applicant is a very meritorious employee having obtained outstanding report in his earlier 25 years of blemishless

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service. Hence even if the two CRs of 1991-92 and 1992-93 are adverse his case cannot be rejected for promotion.

8. We are at a loss to appreciate his contention. The promotion is based on earlier CRs earlier to the date of his consideration for promotion. When the applicant obtained adverse confidential report for the year 1991-92 and 1992-93 he cannot submit to treat them as invalid for granting him promotion and his case should be decided on the basis of his earlier outstanding confidential reports. Such a contention is against the promotion policy of the government. Hence this contention is only liable to be rejected.

9. The applicant having failed to challenge the adverse report given to him for the years 1991-92 and 1992-93 he cannot get any relief in this OA. The DPC is being manned by the experienced officers of the department. Their action cannot be questioned unless malafides are attributed. No malafides are attributed to the Members of the DPC. Hence we do not see any reason to call for the records to get ourselves satisfied in regard to the rejection.

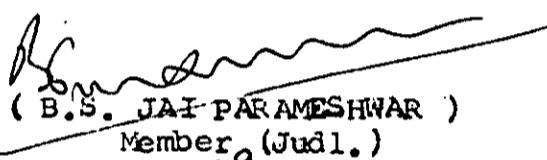
10. The applicant submits that one of the officers who is a delinquent officer had given him adverse and hence such report cannot be relied upon. This allegation cannot be taken note of as that delinquent officer is not a party to this OA. Passing

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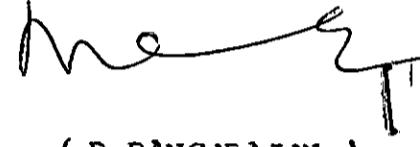
any orders against him or even to observe some adverse <sup>common</sup> remarks about that officer, that officer should be present before us. That officer is not a party to this OA. Hence this contention is rejected.

11. On all counts we find that there is absolutely no merit in this OA. Hence this OA is dismissed. No costs.

  
( B.S. JAI PARAMESHWAR )

Member (Judl.)

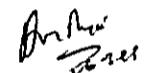
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( R. RANGARAJAN )

Member (Admn.)

Dated : 22nd March, 1999

(Dictated in Open Court)

  
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Copy to:

1. H.D.H.N.J
2. H.H.R.P. M.(A)
3. H.B.S.O.P. M.(J)
4. D.R.(A)
5. SPARE

9/4/99 ✓  
1ST AND 2ND COURT

TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H.NASIR:  
VICE - CHAIRMAN

THE HON'BLE MR.H.RAJENDRA PRASAD:  
MEMBER (A)

THE HON'BLE MR.R.RANGARAJAN.  
MEMBER (A)

THE HON'BLE MR.B.S.JAI PARAMESWAR  
MEMBER (J)

DATED: 22/3/98

ORDER/ JUDGEMENT

MA./RA./CP. NO.

IN

O.A. NO. 1391/97

ADMITTED AND INTERIM DIRECTIONS  
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/ REJECTED

NO ORDER AS TO COSTS

SRR

6. COPY

केन्द्रीय प्रशासनिक अधिकार  
Central Administrative Tribunal  
प्रेषण / DESPATCH

-7 APR 1998

हैदराबाद न्यायपीड  
HYDERABAD BENCH