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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

Date of Decision: 10.4.95.

OA 382/93

S.P. SNEHI

... APPLICANT.

V/s.

UNION OF INDIA & ORS.

... RESPONDENTS.

CORAM:

HON'BLE MR. GOPAL KRISHNA, MEMBER (J).

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

For the Applicant

... SHRI P.V. CALLA.

For the Respondents

... SHRI U.D. SHARMA.

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

In this application u/s 19 of the Administrative Tribunals Act, 1985, Shri S.P. Snehi has sought the following two reliefs :-

- i) Order dated 13.8.92 (Annexure A-2), by which the applicant was reverted from the post of officiating TDE to that of TES, Group-B, may be quashed and the applicant may be treated as holding the post of a Group-A Officer from the date of his original officiating promotion namely 12.4.91.
- ii) Order dated 11.5.93 (Annexure A-1), by which certain juniors of the applicant were granted promotion to Group-A post, ignoring the applicant, may be declared illegal in so far as the applicant has been ignored for promotion to Group-A post, and the respondents may be directed to include the name of the applicant in the promotion order dated 11.5.93 at an appropriate place, as per his seniority, with all consequential benefits.

2. That facts, as stated by the applicant, are that while holding a Group-B post, as Assistant Engineer, he was granted promotion on ad hoc basis to a Group-A post as officiating TDE by order dated 12.4.91. Subsequently, however, by order dated 13.8.92 (Annexure A-2) he was reverted to the lower Group-B post, from which he was granted promotion. Thereafter, fresh promotions

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to the Group-A posts were held vide order dated 11.5.93. The applicant's name was not, however, included in the order dated 11.5.93 (Annexure A-1), by which promotions to Group-A posts were granted and in particular the name of Shri C.L. Verma, respondent No.4, who was junior to the applicant, was included in the promotion order. The applicant is aggrieved that his name was not considered by the DPC on the basis of which promotions were granted vide order Annexure A-1 dated 11.5.93.

3. The respondents, in their reply, have stated that the applicant had been reverted to the lower Group-B post as he was junior-most in the gradation list of officers working on ad hoc basis and, therefore, his reversion was proper and justified. The respondents have added that there was no vacant post remaining in the Rajasthan Telecom Circle due to the posting of regular incumbents and, therefore, the applicant had to be reverted. They have further stated that the applicant has not availed himself of the statutory remedy of preferring an appeal against the order of reversion, as provided under Rule-23 (v) (b) of the CCS (CCA) Rules. However, since the applicant has not availed himself of the non-statutory remedy, the reversion order has attained finality and, therefore, cannot be challenged at this stage.

4. Regarding the non-inclusion of the name of the applicant in the promotion order Annexure A-1 dated 11.5.93, the respondents have stated in the reply that when the meeting of the DPC was held in May, 1993, applicant's name could not be considered due to non-availability of his ACR folder. However, subsequently, his case was duly considered by the Screening Committee in its next meeting and the applicant has since been promoted to Group-A post on ad hoc basis vide order dated 13.7.93 (Annexure R-2).

5. We have heard the learned counsel for the parties and have perused the records. As regards applicant's reversion

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by order dated 13.8.92 (Annexure A-2), the respondents have justified it firstly on the ground that the applicant was working on the said post on ad hoc basis and, secondly, that he was junior-most and, thirdly, that there was no vacant post remaining in the Rajasthan Telecom Circle due to the posting of regular incumbents. The respondents have, however, not clarified in the reply two aspects. First is whether it was on account of coming back of some officers senior to the applicant in Group-A posts from deputation or otherwise that the applicant being the junior-most had to be reverted to the lower Group-B post. Secondly, whether the applicant on promotion to the Group-A post, though on ad hoc basis, was liable to be posted only in Rajasthan Circle or whether he was entitled to be posted anywhere in India and, therefore, whether the vacancy position of all over India had to be considered before reverting the applicant to a Group-B post. This second question arises in the context of the submission of the learned counsel for the applicant that the applicant on his promotion by subsequent order dated 13.7.93 (Annexure B-2) has been posted in Gujarat. In this regard it is to be seen that the earlier promotion, on the basis of which subsequent reversion order dated 13.8.92 was passed, was granted by order Annexure A-4 dated 12.4.91, which was passed by the General Manager, Telecom District, Jaipur. Apparently, therefore, the earlier order of promotion on ad hoc basis was more or less a local arrangement. However, question still remains whether the reversion of the applicant was in fact on account of coming back of a person senior to him from deputation or otherwise. The respondents are directed to verify this aspect and if they find that the reversion of the applicant was not merely on the ground that

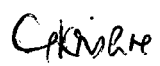
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he was junior-most but because of a person senior to the applicant came back from deputation or otherwise to Rajasthan Telecom Circle and, therefore, the applicant had to be reverted to the lower Group-B post. If they find that this ^{is} indeed the position, the applicant's reversion by order dated 13.8.92 need not be disturbed. However, if the position on verification ^{is} found to be otherwise, the respondents shall take necessary action to treat the order dated 13.8.92, reverting the applicant, as not having been properly passed, with other consequential reliefs. The respondents shall verify this aspect and send an appropriate communication to the applicant within a period of three months from the date of receipt of a copy of this order.

6. As regards the applicant's not being included in the promotion order dated 11.5.93 (Annexure A-1), the respondents have more or less accepted that the applicant was not considered by the DPC held in May, 1993, not on account of any fault of the applicant but because of non-availability of his ACRs at the relevant time. In the circumstances, the respondents are directed to hold a review DPC for consideration of the case of the applicant for promotion to the Group-A post qua respondent No.4 with effect from the date on which the said respondent No.4 was granted promotion. In case he is found fit for promotion to the Group-A post, he shall be granted promotion with effect from the date on which the said respondent No.4 was promoted, with consequential benefits. The said review DPC shall be held within a period of three months from the date of receipt of a copy of this order.

7. The CA stands disposed of accordingly, with no order as to costs.


(O.P. SHARMA)
MEMBER (A)


(GOPAL KRISHNA)
MEMBER (J)

VK.