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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH: JAIPUR

Date of order : 20.07.2000

O.A. No. 462/1994

A. Ramadass son of Shri K. Arumugam, aged 49 years, by caste Adidravida (S.C.), working as Chief Accounts Officer, O/o. the Chief General Manager, Telecom, Rajasthan Circle, Jaipur.

... Applicant.

v e r s u s

1. Union of India through the Secretary, Ministry of Communications, Sanchar Bhawan, New Delhi.
2. Chairman, Telecom Commission, Department of Telecom, Sanchar Bhawan, New Delhi.

... Respondents.

Mr. K.S. Sharma, Counsel for the applicant.

Mr. Hemant Gupta, Adv., Brief holder for Mr. M. Rafiq, Counsel for the respondents.

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman.

Hon'ble Mr. N.P. Nawani, Administrative Member.

: O R D E R :

(Per Hon'ble Mr. Justice B.S. Raikote)

This application is filed for a direction to the respondent to follow strictly the formula of 40 point roster of reservation for the purpose of promotion from Group 'B' to the Junior Time Scale Class-I post of Indian P&T Accounts and Finance Service. It is contended by the applicant that if the formula of 40 point roster is to be adopted, the applicant would have been promoted to the post of Junior Time Scale Class-I post. But they have not promoted the applicant and as such the action of the respondents is illegal and arbitrary. On the other hand, the

official respondents denied the submissions made in the application contending that even though 40 point roster is applicable for such promotion to Junior Time Scale Class-I from Group 'B' post, but in order to be eligible a person, has to put in 8 years of service in Group 'B' cadre, and the applicant has not put in 8 years of service in Group 'B', therefore, he is not eligible for such promotion. As against this argument, the learned counsel for the applicant submits that the qualifying service prescribed is only 3 years and not 8 years, as contended by the respondents. He relied upon the rules framed under Article 309 of the Constitution of India, vide DG P&T letter No. 17-27/77-SEA dated 28.8.80, regarding the promotion to Junior Time Scale, stating that the qualifying service prescribed is 3 years. Learned counsel for the applicant stated that he has filed Annexure A/9, the extract of the relevant rules, for promotion to the Junior Time Scale Class-1 post. As against this argument, the learned counsel for the respondents submits that not less than 3 years of approved services in the grade appears to be a typographical mistake and in fact, it appears to be 8 years. To rebut this argument, he relied upon the proviso to that rule and contended that even in the proviso to the said rule, the 8 years service is referred to.

3. From the controversy raised between the parties, the short point for our consideration would be whether for the purpose of promotion to Junior Time Scale Class-1 post, 3 years qualifying service is required as contended by the applicant or 8 years qualifying service is required as contended by the respondents.

4. In order to appreciate the rival contentions, we think it appropriate to extract the relevant rules - Indian Posts and Telegraphs Accounts & Finance Service Class-I (Recruitment) Rules, 1980, filed as Annexure A/9, regarding the promotion to the post of Junior Time Scale Class-1 post, as under:-

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" (1) for clause (i) the following clause shall be substituted namely :-

(i) **Junior Time Scale** : Appointment by promotion to the Junior Time Scale in the service shall be made by selection on merit from amongst officers of the Posts and Telegraphs Accounts & Finance Service, Postal Wing, Group B and Posts and Telegraphs Accounts and Finance Service Telecommunication Wing, Group B with not less than 3 years of approved service in the grade on the recommendations of a duly constituted Departmental Promotion Committee in consultation with the Commission. The vacancies for appointment to the Junior Time Scale shall be shared between the officers of the Posts and Telegraphs Accounts & Finance Service Postal Wing Group B and the Posts and Telegraphs Accounts & Finance Service Telecommunication Group 'B' in the ratio of 2:5.

Provided that the said ratio of 2:5 shall be reviewed further after a period of three years from the date of commencement of the Indian Posts & Telegraphs Accounts & Finance Service Class I (Recruitment) Amendment Rules, 1980.

(2) in clause (ii) for the proviso, the following proviso shall be substituted, namely :


Provided that officers of the Posts and Telegraph Accounts & Finance Service, Telecommunication Wing Group B, who are on the approved list for promotion to the Junior Time Scale under clause (i) may be allowed to officiate in the Senior Time Scale in an officiating capacity as a purely temporary measure if they have rendered 8 years total regular service in that grade and above till such time as officers of the Junior Time Scale are available for promotion to Senior Time Scale."

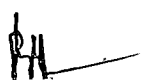
5. From the reading of the Rule, we find that the qualifying service for promotion from Group 'B' post to the post of Junior Time Scale Class-1, would be 3 years, but the learned counsel for the respondents contended that the figure 3 found in clause 1(i) of the Rules, is a typographical mistake and it should be necessarily 8. He sought his support from the proviso to the Rule stating that for the purpose of promotion from Junior Time Scale to Senior Time Scale, 8 years total regular service is considered as qualifying service. In view of this contention, we directed the parties to produce the Rules in question. Accordingly, the learned counsel for the respondents produced before us a photo copy of Office Memorandum No. 4-2/94-SEA dated 27.4.95 (date is not clear in the O.M). From the reading of this O.M. also, we find that the department has clarified that regarding the promotion from Group 'B' post to the Junior Time Scale Class-I post, 3 years qualifying service is prescribed and for the purpose of promotion from the post of Junior Time Scale to the post of Senior Time Scale Class-I, 8 years qualifying service is prescribed.

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The Photo copy of the Office Memorandum referred to above has been taken as part of the record, in this case. From this O.M., the controversy stands settled that the qualifying service for the purpose of promotion from Group 'B' to the post of Junior Time Scale Class-I post is only 3 years. If that is so, the contention of the applicant's counsel merits acceptance. On 19.7.2000, the learned counsel for the applicant also showed us the printed book wherein 3 years of qualifying service is mentioned. Accordingly, we hold that the qualifying service for the purpose of promotion from Group 'B' post to the Junior Time Scale Class-I post in terms of Indian Posts and Telegraph Accounts & Finance Service Class-I (Recruitment) Rules, 1980, is 3 years. Accordingly, we pass the order as under:-

6. The O.A. is allowed. The respondents are hereby directed to consider the case of the applicant for promotion to the post Junior Time Scale Class-I post according to rules, with effect from the date if any of his junior is so promoted, within a period of three months from the date of receipt of a copy of this order. No costs.

  
(N.P. NAWANI)  
Adm. Member

  
(B.S. RAIKOTIE)  
Vice Chairman

cvr.