

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.514/94

Date of order: 28/6/2000

P.P.Sharma, S/o Shri C.L.Sharma, R/o House No.62, Shiv Ram Colony, Jagatpura, Jaipur, presently employed on the post of Senior PA(G) in the Office of GMTD, Jaipur.

...Applicant.

Vs.

1. Union of India through the Secretary to the Govt, Deptt. of Telecom, Mini. of Telecommunications, New Delhi.
2. Chief General Manager, Rajasthan Telecom Circle, Sardar Patel Marg, C-Scheme, Jaipur.
3. I.R.Parnami, Sr.P.A to General Manager (Development), O/o the CGMT Rajasthan, Sardar Patel Marg, C-Scheme, Jaipur.

...Respondents.

Mr.Shiv Kumar - Counsel for applicant

Mr.U.D.Sharma - Counsel for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

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

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to direct the respondents to consider his name for promotion to the post of Senior P.A(G) in the pay scale Rs.2000-3200 at par with respondent No.3 and to allow all consequential benefits including the difference of pay.

2. In brief facts of the case as stated by the applicant are that he was initially appointed on the post of Postal Clerk on 20.6.1964. Thereafter, he was promoted and at present he is working as Senior PA(G) in the pay scale Rs.2000-3200. It is stated that a post of Senior PA fallen vacant in the month of July 1992 due to retirement of Shri S.S.Sharma. The applicant was senior most person in consideration zone for promotion to the post of Senior PA(G) in the pay scale Rs.2000-3200 and the department also framed recruitment rules vide letter dated 30.5.88. It is stated that the applicant applied for promotion on the post of Sr.PA(G) but he was not considered even for officiating promotion to the post of Sr.PA(G) and his junior, respondent No.3 was given officiating promotion vide order dated 10.8.92. It is further stated that the applicant filed repeated representations but the respondents issued order for promotion of the applicant w.e.f.15.7.94 whereas the applicant was entitled to promotion w.e.f. 10.8.92, the date when junior to the applicant was given promotion. It is stated that not

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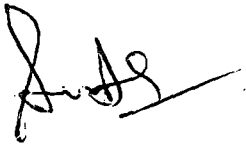
considering the applicant for promotion on the post of Sr.P.A(G) from the date when his junior was considered for promotion is discriminatory and in violation of Articles 14 and 16 of the Constitution of India. The applicant was senior-most in the department and there was no adverse record against him, therefore, giving different treatment to the applicant is altogether arbitrary, illegal and against the fair play. Therefore, the applicant file the O.A for the relief as mentioned above.

3. Reply was filed. In the reply, it is stated that the real grievance of the applicant was against the order dated 10.8.92 but this O.A was filed on 5.10.94, therefore, the O.A is barred by limitation. It is further stated that the vacancy occurred in the Grade of Sr.PA(G) due to the retirement of Shri S.S.Sharma was required to be filled up by giving local officiating promotion to the senior-most P.A Grade-II available in the Circle in accordance with the instructions contained in the circular dated 25.6.91. But at the relevant time the applicant was working under the jurisdiction of the Chief General Manager, Projects Circle, New Delhi, therefore, the applicant was not required to be considered for promotion to the post of Sr.PA(G) and respondent No.3 being senior-most eligible officer available was given promotion purely on ad hoc and temporary basis till further orders. It is also stated that prior to issuance of instructions dated 15.4.94, the cadre of Sr.PA(G) in the pay scale 2000-3200 was an All India Cadre and the posts in the said cadre were filled-up by the department of Telecom, New Delhi. Subsequently, the said cadre was decentralised and declared as a Circle Cadre vide circular dated 15.4.94 and the said posts were required to be filled-up at the Circle level by DPC. It is also stated respondent No.3 was given promotion as he was having proper placement in the seniority list, therefore, the O.A having no merit is liable to be dismissed.

4. Rejoinder was also filed reiterating the facts stated in the O.A. In the rejoinder, it has been made very specific that at the relevant time, the applicant was working at Jaipur under Director, Telecom Projects, Jaipur and the applicant had never worked at Delhi.

5. Heard the learned counsel for the parties and also perused the whole record.

6. On a perusal of the averments of the parties it appears that the applicant was senior-most candidate in the list for promotion to Sr.PA(G) and on representation, the respondents' department has also recommended the case of the applicant strongly for considering the candidature of the applicant for promotion to the post of



Sr.PA(G) w.e.f. 10.5.92. It is not disputed that Shri I.R.Parnami was promoted w.e.f. 10.8.92 on ad hoc basis initially for a period of 30 days but he was allowed to continue without any break. Why the senior-most candidate was left out and a junior who was initially given ad hoc promotion for 30 days was allowed to continue on promotion for a period of 2 years, was not made clear by the respondents in their reply.

7. The learned counsel for the respondents argued that the grievance of the applicant was against the order of promotion dated 10.8.92 but he has filed the O.A in the month of October 94, therefore, the O.A is barred by limitation. The learned counsel for the applicant on the other hand has argued that the prayer of the applicant in this O.A is that the applicant is entitled to be considered for promotion w.e.f. 10.8.92, therefore, he has prayed to modify the order dated 15.7.94, accordingly.

8. No doubt the applicant was entitled to be considered ~~was not considered~~ ~~considered~~ when the DPC considered the candidature of respondent No.3 for ad hoc promotion on the post of Sr.PA(G) as the applicant was senior-most. Therefore, nonconsideration of the candidature of the applicant by the DPC in the year 1992 was objectionable.

9. The respondents have tried to give some reasoning of not considering the candidature of the applicant in the year 1992 but in our considered view, the reasoning given by the respondents for not considering the candidature of the applicant for promotion to the post of Senior PA(G) in 1992 is not convincing. The applicant merely submits that his junior was given ad hoc promotion w.e.f. 10.8.92, therefore, the applicant is also entitled for promotion on the post of Senior PA(G) w.e.f. 10.8.92.

10. In view of the averments made in the O.A by the parties, we are of the considered opinion that the applicant should have been considered for promotion to the post of Senior P.A(G), being senior-most and non-consideration of the applicant on the post of Senior PA(G) makes him entitled to get promotion w.e.f. 10.8.92, from the date when his junior was promoted.

11. In our considered view in the facts and circumstances of this case the question of limitation does not come in the way and the applicant becomes entitled to the benefit of promotion w.e.f. 10.8.92.

12. We, therefore, allow the O.A and direct the respondents to treat the applicant promoted on the post of Senior PA(G) w.e.f. 10.8.92, the date when his junior Shri I.R.Parnami, respondent No.3 was promoted on ad hoc basis. It is further directed to allow

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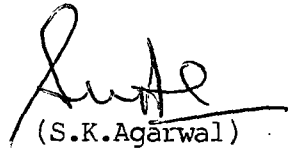
the applicant all consequential benefits including the difference of pay and allowances of the promotion post.

13. No order as to costs.



(N.P. Nawani)

Member (A).



(S.K. Agarwal)

Member (J).