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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.5/99

Date of order: 28/4/2000

G.R.Jalwania, S/o Sh.Narayan Lal ji, R/o 121-A, Adarsh Nagar, Ajmer Road, Beawar, employed on the post of Sr.Supervisor in Telecommunication Deptt, Beawar.

...Applicant.

Vs.

1. Union of India through the Secretary, Deptt.of Telecom, Sanchar Bhawan, New Delhi.
2. General Manager Telecom, Ajmer Telecom Distt., Ajmer.

...Respondents.

Mr.Shiv Kumar - Counsel for the applicant

Mr.S.S.Hasan - 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 quash and set aside the impugned order at Annx.A1 dated 8.9.97 as arbitrary and illegal and to direct the respondents to grant him promotion under One Time Bound Promotion Scheme w.e.f. 1.5.84 with all consequential benefits.

2. Facts of the case as stated by the applicant are that he had completed 16 years of service in the year 1984. The case of the applicant for promotion under One Time Bound Promotion Scheme was considered by the DPC in 1984 but due to the pendency of disciplinary case against the applicant, the result of DPC was kept under Sealed cover. It is stated that the applicant was awarded penalty of Censure but he was given promotion w.e.f. 1.2.90 vide order dated 21.5.90 whereas he was entitled to promotion w.e.f. 1.5.84. It is stated that Censure cannot be a ground for denial of promotion to the applicant and one of his colleague Shri Sunder Chchalani was also given promotion w.e.f. 30.11.83 but the applicant was not given promotion w.e.f. 1.5.84 and was given promotion only w.e.f. 1.2.90. Therefore, the action of the respondents is discriminatory and in violation of Articles 14 & 16 of the Constitution of India therefore the applicant filed the O.A for the relief as mentioned above.

3. Reply was filed. It is admitted in the reply that due to pendency of disciplinary case against the applicant his case was kept in sealed cover thereafter the applicant was awarded penalty of Censure vide order dated 24.10.85. It is stated in the reply that another charge sheet was issued to the applicant on 18.11.85

Sunder

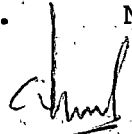
and in that charge sheet the applicant was awarded penalty of stoppage of two increments for 3 years which was modified in appeal as stoppage of two increments for two years vide order dated 3.8.88. It is further stated that the case of Sh.Sunder Chchalani is different and representation of the applicant was duly considered and rejected vide the impugned order dated 8.9.99. Therefore, the applicant has no case and this O.A is devoid of any merit which is liable to be dismissed.

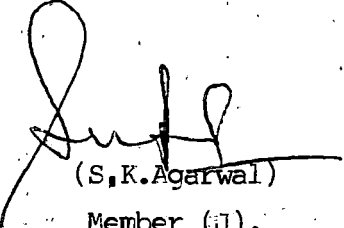
4. Heard the learned counsel for the parties and also perused the whole record.

5. Admittedly, after completing 16 years of service, the DPC had considered case of the applicant alongwith others for promotion under One Time Bound Promotion Scheme on 1.5.84 but due to pendency of disciplinary case against the applicant, the sealed cover procedure was adopted and the case of the applicant was kept in sealed cover. In the departmental enquiry, the applicant was awarded penalty of Censure. It is settled position of law and also admitted by the learned counsel for the respondents that the penalty of Censure cannot come in the way of promotion. As regards another charge sheet is concerned, it was issued on 18.11.85 which cannot be used against the applicant for consideration of his promotion on 1.5.84 when the DPC deferred the same due to pendency of departmental enquiry against the applicant which was ended with the penalty of Censure. As Shri Sunder Chchalani has also been given promotion w.e.f. 18.11.83, as soon as he completes 16 years of service, the case of the applicant cannot be distinguished only on the ground that another charge sheet on 18.11.85 was issued to the applicant and the applicant was awarded penalty of stoppage of two grade increments for two years. This charge sheet cannot be used against the applicant for consideration of his promotion on 1.5.84.

6. In view of above all, we allow the O.A and direct the respondents to consider the promotion of the applicant under One Time Bound Promotion Scheme w.e.f. 1.5.1984 and to pay him arrears within a period of 3 months from the date of receipt of a copy of this order.

7. No order as to costs.


(N.P. Nawani)
Member (A).


(S.K. Agarwal)
Member (J).

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**In The Central Administrative Tribunal
Jaipur Bench, Jaipur**

OA/TA/MP No.....MA.No.247/2000

Versus (OA No.5/1990)

G.R. Jalwania
Date of Order


Union of India and Ors.
Orders

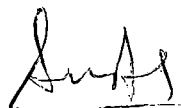
31.7.2000

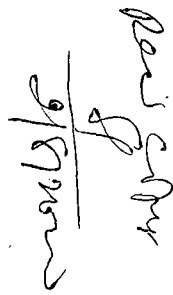

Mr. S.S.Hasan, counsel for the the applicant in this
MA (respondents in OA)

Mr. Shiv Kumar, counsel for the respondent in this MA
(applicant in OA)

This Misc. Application No. 247/2000 has been
filed for extending the period for compliance of the
order dated 28.4.2000. In view of the submissions made
in this Misc. Application, we grant two months' time to
implement the order with reference to our order dated
28.4.2000. Misc. Application stands disposed of
accordingly. Copy of the order may be given to the
learned counsel for the applicant in this MA.


(N.P.NAWANI)
Adm. Member


(S.K.AGARWAL)
Judl.Member



on 3-8-2000
