

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 15. 3. 2002

OA 90/97

Veer Singh, Telephone Operator, Telephone Exchange, Bharatpur.

... Applicant

Versus

1. Union of India through Secretary, Ministry of Telecommunications, Sanchar Bhawan, New Delhi.
2. Chief General Manager, Telecommunications, M.I. Road, Jaipur.
3. Telecom District Manager, Department of Telecommunications, Bharatpur.

... Respondents

CORAM:

HON'BLE MR. JUSTICE O.P. GARG, VICE CHAIRMAN

HON'BLE MR. A.P. NAGRATH, ADMINISTRATIVE MEMBER

For the Applicant

... Mr. P.P. Mathur

For the Respondents

... Mr. Bhanwar Bagri

O R D E R

PER HON'BLE MR. A.P. NAGRATH, ADM. MEMBER

The applicant is working as Telephone Operator, Bharatpur. He was promoted under One Time Bound Promotion Scheme (OTBP, for short) vide order dated 4.9.95 and the orders were made effective from 7.8.91. Subsequently, vide order dated 7.2.97 (Ann.A/1) the promotion orders under the OTBP Scheme in respect of the applicant were cancelled and he was reverted back to the post of Telephone Operator. Aggrieved with this action of the respondents, he has filed this OA.

2. Notice of this OA was sent to the respondents, who have filed a written reply stating that OTBP is given on completion of 16 years of service in the present basic grade. The applicant was working in the grade of Telephone Operator w.e.f. 25.9.82 and thus he could not have been promoted under OTBP w.e.f. 7.8.91. This mistake occurred for the reason that his date of appointment in Group-D post, which was 7.8.75, had wrongly been taken into account for computing 16 years of service in the basic grade. The respondents' plea is that 16 years of service for the purpose of this promotion to the post of TOA (P) Gr.II was to be reckoned from the date of his appointment in the present basic grade of



Telephone Operator. This date is 25.9.82. It has further been stated that the applicant was promoted later vide order dated 18.3.97 giving effect to his promotion from 25.11.96. This has been done on the ground that the applicant belongs to SC category and that the employees belonging to SC/ST categories become eligible for promotion under the Scheme after completing 10 years of service, provided there is a short-fall of SC/ST. According to the respondents, a vacancy became available only w.e.f. 25.11.96 and the applicant was promoted.

3. A rejoinder has also been filed by the applicant, wherein the ground that his promotion under OTBP could not have been effected w.e.f. 7.8.91 has been accepted by the applicant but then he has raised a plea that he should have been promoted w.e.f. 25.9.92 as soon as by then he had completed the requisite length of service of 10 years. He submits that instead of giving effect to his promotion, from 16.11.93 one Smt.Raj Kumari, who also belongs to SC, has been promoted and he is being denied his due benefit.

4. Heard the learned counsel for the parties. The learned counsel for the applicant stated that the applicant has been promoted against the vacancy which occurred on promotion of one Smt.Mewa Meena. He asserted that the respondents have confused the issue by stating that promotion of Smt.Mewa Meena caused a short-fall of SC point as Smt.Meena belongs to ST category. He assailed the plea taken by the respondents on this account and submitted that the applicant was rightly entitled to be promoted w.e.f. 16.11.93 against which vacancy Smt.Raj Kumari had been promoted, who was junior to the applicant.

5. The argument advanced on behalf of the applicant that he should have been promoted w.e.f. 16.11.93 against the vacancy in which Smt.Raj Kumari was accommodated w.e.f. 17.3.94 was rebutted by the respondents on the ground that at the relevant point the applicant held his lien in Sikar Division, whereas the vacancy in which Smt.Raj Kumari was accommodated had occurred in Bharatpur Division. While admitting that the applicant was working on Bharatpur Division w.e.f. 2.12.88, it has been stated that he sought transfer to that division only in 1994. His request was

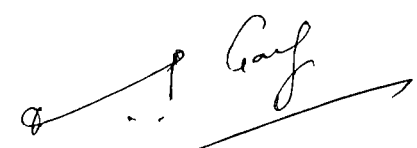


accepted and the transfer was effected from 19.12.94. For this reason, there was no occasion to consider his case against the vacancy of Bharatpur Division prior to this date. However, the respondents have not been able to explain as to how by promotion of Smt.Mewa Meena, a ST candidate, a short-fall of SC point could have occurred in the roster. The respondents have admitted that short-fall of SC point on the basis of 40 Point Roster had in fact occurred on 7.8.91 in Bharatpur Division but because the applicant had not completed 10 years of service on that date, he could not have been promoted. That was the reason that the promotion orders issued earlier w.e.f. 7.8.91 had to be cancelled subsequently. We do not see any reason for not promoting the applicant w.e.f. 25.9.92 when admittedly he had completed 10 years of service against the vacancy which had occurred on 7.8.91. During arguments no explanation was forthcoming on this ground on behalf of the respondents. The applicant has also made a plea in the rejoinder that date of effect of his promotion may be changed to 25.9.92. We find there is a lot of merit in this stand of the applicant, to which there has been no rebuttal from the respondents.

6. Under the circumstances, we allow this OA. The respondents are directed to consider the applicant as having been promoted under OTBP as TOA (P) w.e.f. 25.9.92. He shall also be entitled to all consequential benefits arising out of this order. The respondents shall comply with this direction within one month from the date of receipt of a certified copy of this order. No order as to costs.


(A.P.NAGRATH)

MEMBER (A)


(JUSTICE O.P.GARG)

VICE CHAIRMAN