

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 32.03.2001

OA No.373/98

D.N.Singh s/o Shri Ram Sakat Singh r/o 3B, Suraj Mal Nagar, Bharatpur and presently working on the post of Driver O/o Sub-Divisional Officer, Telegraph, Bharatpur.

.. Applicant

Versus.

1. Union of India through Secretary to the Department of Telecommunication, Ministry of Communication, Sanchar Bhawan, New Delhi.
2. Chief General Manager Telecommunications, Rajasthan Circle, Jaipur.
3. Telecom District Manager, Telecommunication Department, Bharatpur.

.. Respondents

Mr. C.B.Sharma, counsel for the applicant

Mr. V.S.Gurjar, counsel for the respondents

CORAM:

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

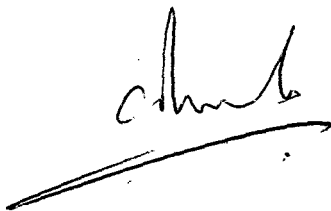
Hon'ble Mr. N.P.Nawani, Administrative Member

Order

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

The applicant has filed this OA seeking following reliefs:-

- "i) That the Annexure A/1 dated 14.7.98 and Annexure A/2 dated 8.6.98 be quashed and respondents be directed to allow the benefits of promotion as ordered to allow the benefits of promotion as ordered vide Memo. dated 22.12.97 (Annexure A/5) by fixing the pay of applicant in the pre-revised scale of Rs. 1200-1800 then into 1320-2040 w.e.f. 1.8.93 with all consequential benefits including arrears of pay and allowances etc.
- ii) That respondents be further directed to allow corresponding



scale w.e.f. 1.1.96 on the recommendations of Vth Pay Commission after allowing benefits of promotion in Grade-I Driver in pre-revised scales.

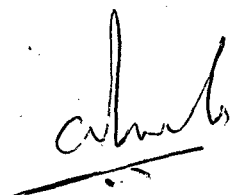
- iii) Any other order/direction of relief may be granted in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case.
- iv) That the cost of this application may be awarded."

2. We have heard the learned counsel for the parties and have also perused all the material on record.

3. The simple question to be answered in this OA is whether the promotion given to the applicant from the basic grade of Driver to Grade-I vide order dated 22.12.1997 (Ann.A5) could be cancelled vide impugned order dated 14.7.1998 (Ann.A1) due to currency of punishment of stoppage of one increment for 3 years without cumulative effect.

4. The learned counsel for the applicant has drawn our attention to the order dated 15.11.2000 rendered by this ^{Bench} of the Tribunal in OA No.262/98 filed by the applicant earlier, by which punishment as mentioned in the preceding paragraph has been quashed and set-aside. His contention is that since the promotion of the applicant has been cancelled vide Ann.A1 only on the ground of the said punishment, and since the punishment no longer survives, the respondents may be directed to allow the benefits of promotion given vide order dated 22.12.97 (Ann.A5) to the applicant and fix his pay in the pre-revised scale of Rs. 1200-1300, and in the scale of pay revised thereafter, with all consequential benefits.

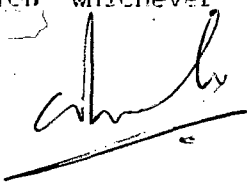
5. On the other hand, the learned counsel for the respondents contends that the promotion order dated 22.12.1997 itself



incorporates a condition that promotion is to be given if there was no vigilance/disciplinary case pending/contemplated and there is no currency of punishment of any kind and, therefore, the impugned order of cancellation of promotion is perfectly legal and action taken by the respondents cannot be said to be arbitrary or unjustified.

6. It has also been contended by the learned counsel for the applicant that inspite of quashing of the penalty by this Tribunal vide its order dated 15.11.2000, the chargesheet against the applicant is still pending but a pending chargesheet cannot come in the way of promotion and, therefore, a promotion already granted to the applicant vide order dated 22.11.97 should be released by the respondents and his pay should be accordingly fixed and he should be paid arrears as accruing to the applicant.

7. We have carefully considered the rival contentions. It is now undisputed that the penalty imposed on the applicant has been quashed by the order of this Tribunal dated 15.11.2000 rendered in OA No. 262/98. The applicant is, therefore, entitled to be considered for promotion from basic grade of Driver to Grade-I alongwith those whose cases were considered by the DPC following which promotion orders as contained in Ann.A5 were issued. Since the promotions were made after obtaining the recommendations of the DPC, we cannot accept the contention of the learned counsel for the applicant that the respondents may be directed to straightaway fix the pay of the applicant in Grade-I. As per the settled law, the respondent No.2 should immediately arrange for a meeting of the Review DPC for consideration of the case of the applicant for promotion from basic grade of Driver to Grade-I. If the applicant is found fit by the DPC, the promotion of the applicant should be granted w.e.f. 1.8.1993 or the date on which he met the eligibility condition whichever is later and he could also be



entitled to the consequential benefits as per law.

8. We, therefore, dispose of this OA with a direction to respondent No.2 to arrange a meeting of the Review DFC and take further action as per rules. The meeting of the Review DFC shall be convened within three months of the date of receipt of a copy of this order.

Parties are left to bear their own costs.



(N.P. NAWANI)

Adm. Member



(S.K. AGARWAL)

Judl. Member