

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

OA No. 469/1999

DATE OF ORDER: 21/7/2002

B.D. Tyagi son of Late Shri Shiv Dayal Tyagi aged 61 years, Dy. General Manager (OPC Installation) (Retired) Office of General Manager Telephone District, Jaipur resident of B. 166 Malviya Nagar, Jaipur.

....Applicant.

VERSUS

1. Union of India through Secretary,.. Ministry of Telecommunication, Department of Telecommunications, Government of India, New Delhi.
2. The Chairman, Telecom Commission, Sanchar Bhavan, 20 Ashoka Road, New Delhi.

....Respondents.

Mr. R.C. Joshi, Counsel for the applicant.

Mr. R.L. Agarwal, Proxy counsel for

Mr. Bhanwar Bagri, Counsel for the respondents.

CORAM

Hon'ble Mr. A.P. Nagrath, Member (Administrative)

Hon'ble Mr. J.K. Kaushik, Member (Judicial)

ORDER

PER HON'BLE MR. A.P. NAGRATH, MEMBER (ADMINISTRATIVE)

The applicant had retired as Dy. General Manager from the Telecom Department. He has filed this OA with the plea that he was not granted his due seniority in TES Group 'B' with the result that his Juniors, S/Shri B.C. Balai, Kalyan Singh, A.N. Shreenisasa Murthy and Raj Dev stole a march over him and got promoted to Junior Administrative Grade in the year 1994 while the applicant was so promoted in the year 1996. He had submitted a representation dated 17.8.96 in pursuance of the order of this Tribunal in OA No. 578/96 passed on 13.4.99, the said representation came to be considered by impugned order dated 16.7.99 (Annexure A/1) and the same was rejected. This order has been challenged in this



OA. The applicant's prayer is that he be promoted as TES Group 'B' w.e.f. 8.8.73, in Group 'A' w.e.f. 8.7.82 and in JAG of ITS Group 'A' w.e.f. 28.10.94 i.e. the dates his juniors were promoted with all consequential benefits including revising his settlement dues..

2. Shorn of all superficialities, the facts relevant to the case are that at the relevant time when the applicant and his juniors were to be considered for placement as TES Group 'B', they were required to qualify in the departmental examination. Applicant's case is that since he had qualified in June 1972 alongwith S/Shri B.C. Balai and Kalyan Singh and was placed higher in merit, he, as a matter of right, was to be placed in TES Group 'B' in preference to these two individuals. For the same reason, he is claiming preference over S/Shri A.N. Shriniwasamurthy and Raj Deo, who qualified in the subsequent examination held in December, 1972. In terms of judgement dated 20.2.1985 of the Lucknow Bench of Allahabad High Court and as upheld by Hon'ble Supreme court, the entire seniority of TES Group 'B' Officers was required to be revised and a review DPC was to be conducted to review the placement in TES Group 'B' in the year 1973. According to the applicant, he being senior to the personsabove named, had to be placed in TES Group 'B' in the year 1973 when these juniors were so placed, whereas he was actually placed in TES Group 'B' in the year 1974 by order dated 13.8.74.

3. We have heard the learned counsel for the parties and also perused the records. The learned counsel for the applicant made out his case by alleging that review DPC which was required to be held in the year 1982 in pursuance of the orders of the Lucknow High Court and as upheld by Apex Court, did not consider the name of the applicant while those of the juniors were considered. As per the applicant's averment also, he has submitted that in the seniority list of the TES Group 'B' circulated on 8.9.92, the name of the applicant did not find its place whereas his juniors were shown at sl. Nos. 31, 49, 57 and 58. The applicant's name was



shown in the subsequent list dated 22.9.92. While referring to this, the learned counsel alleged that this was evidence enough to support his contention that the applicant's name was not considered alongwith his juniors while reviewing the DPC proceedings which were earlier held in the year 1973. He also challenged the impugned order wherein the reasons for placing the juniors on the panel of TES Group 'B' in 1973 and for omitting the name of the applicant has been indicated. The learned counsel for the applicant has vehemently stressed that the reasons given were not correct as the applicant was equally meritorious. The actual reasons, according to the learned counsel, was that applicant was not considered at all alongwith his juniors.

4. The learned counsel for the respondents repelled this argument of the learned counsel for the applicant and emphasised that the applicant's case was duly considered but he was found less meritorious as compared to S/Shri B.C. Balai, Kalyan Singh, A.N. Shreenisasa Murthy and Raj Dev. The respondents have also produced before us copy of the review proceedings.

5. We have gone through the record of the review proceedings placed before us and have given anxious consideration to the arguments of either side and documents annexed with this OA, as also with the reply of the respondents.

6. There is no doubt that the name of the applicant was duly considered by the Review DPC held on 31.8.1992 to 2.9.1992. This Review DPC reviewed the DPC proceedings which earlier held from 30.3.72 to 30.7.73. The name of the applicant appeared at sl. No. 660, that of Shri B.C. Balai at sl. No. 680, Kalyan Singh at sl. No. 1006, A. N. Shreenisasa Murthy at sl. No. 1200 and Raj Dev at sl. No. 1317. Thus there is no force in the allegation of the applicant that his name was not considered at all by the Review DPC. We have also seen the relative evaluation as recorded by the DPC.

The four juniors have been rated as more meritorious as compared to the applicant. We find that the impugned order very expressly and in clear terms disclosed the reasons for placing the juniors in the TES Group 'B' in the year 1973 in preference to the applicant. There is no infirmity in this order and the same is self explanatory. No case has been made out by the applicant, warranting our interference.

7. This OA is dismissed as having no merits. Parties are left to bear their own costs.

J.N. KAUSHIK

(J.N. KAUSHIK)

MEMBER (J)

A.P. NAGRATH

(A.P. NAGRATH)

MEMBER (A)

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