

CENTRAL ADMINISTRATIVE TRIBUNA, JAIPUR BENCH

O.A.No.311/2000

Jaipur, this 24th day of May, 2002

Hon'ble Shri M.P. Singh, Member (A)

Hon'ble Shri J.K.Kaushik, Member(J)

M.L.Gahlot

530, Jai Lal Munshi Ka Rasta
First Crossing, Chandpole Bazar
Jaipur

.. Applicant

(Shri P.N. Jatti, Advocate)

Versus

Union of India, through

1. Secretary
Department of Telecom
Sanchar Bhawan, New Delhi
2. Chief General Manager
Rajasthan Circle, Jaipur
3. Principal General Manager
Telecom District, Jaipur

.. Respondents

(Shri Sanjay Pareek, Advocate through proxy
counsel Shri P.C.Sharma)

ORDER

Shri M.P. Singh, Member(A)

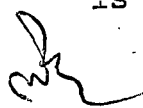
By the present OA, applicant seeks direction to the respondents to grant him one time-bound promotion w.e.f. 20.6.1989 on completion of 16 years of service with consequential benefits.

2. Briefly stated, the applicant was appointed as Technician on 20.6.73. He was charge-sheeted on 25.8.84 under Rule 14 of CCS(CCA) Rules, 1965. This matter was decided on 28.2.96 by awarding punishment of stopping one increment. He filed an appeal against this order and by order dated 18.7.96 the punishment was reduced to that of Censure. He preferred a revision but the result remained unchanged vide order dated 20.1.98. In the meantime he submitted representation dated 23.10.97 for allowing him one time-bound promotion on completing 16 years service on 20.6.89 because censure is not a bar for promotion but without success. Hence this OA.

3. Respondents in their reply have stated that the DPC recommended candidature for promotion under OTBP Scheme w.e.f. 20.6.93 and orders were passed on 29.12.93. The DPC considered his case under misconception and also on the basis of wrong information given by the Unit that no enquiry was pending against the applicant, whereas the enquiry was pending. However, the department realised its mistake and withdrew the promotion order. He retired from service on 30.9.97 on attaining superannuation. After the decision of review/revision petition dated 20.1.1998, applicant's case was again placed before the DPC for promotion under OTBP Scheme. The DPC reviewed his complete CRs and recommended his candidate for promotion under OTBP Scheme w.e.f. 20.6.93. Accordingly promotion order was issued on 9.2.2000. In view of this the OA be dismissed.

4. Heard the learned counsel for parties and perused the records.

5. During the course of the arguments, the learned counsel for the applicant has submitted that the respondents had taken undue long delay in awarding punishment to him vide order dated 28.2.96 while the charge-sheet was issued to him on 25.8.84. Again when the punishment was modified to that of Censure vide order dated 18.7.96 there was no valid reason to grant him OTB promotion from 20.6.93 that too by an order passed on 9.2.2000, i.e. after applicant's retirement on 30.9.97, as the position regarding Censure remained the same even on 20.6.1989. Therefore the applicant should have been given OTB promotion from 20.6.89 on completion of 16 years service as per Rules, as censure is no bar for promotion.



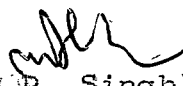
6. The learned counsel for the respondents has conceded that OTB promotion given to the applicant from 20.6.93 was by mistake. Moreover, the applicant has not assailed the order dated 9.2.2000 by which he has been granted OTB promotion w.e.f. 20.6.1993.

7. We find that the delay in passing the punishment order after a long gap of more than 11 years has not been explained properly by the respondents. Besides, when the punishment has been modified as Censure, which is no bar for granting promotion, there is again no explanation as to why OTB promotion was granted to the applicant from 20.6.93, when he was due for the same on 20.6.89. That apart, respondents have not come with any valid ground for issuing the promotion order on 9.2.2000 giving effect from 20.6.1993. Therefore, we find force in the contention of the applicant that he ought to have been granted OTB promotion from 20.6.89 when the punishment has been modified to that of Censure.

8. Therefore, for the reasons recorded above, the OA is allowed and the order dated 9.2.2000 is quashed and set aside. Respondents are directed to pass fresh orders granting OTB promotion to the applicant w.e.f. 26.8.89. Applicant shall be entitled to all consequential benefits including retiral benefits. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order. No costs.



(J.K. Kaushik)
Member(J)



(M.P. Singh)
Member(A)

/gtv/