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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,
JAIPUR

Date of Order: 27.04.2001.

O.A.No. 456/2000

S.B.Narsinghani S/o Shri Brahmanand age 52 years, A-59,
Mansarovar Colony, Vaishali Nagar, Ajmer, Sr. TOA(P)O/o
JTOVII (SDOP)Ajmer.

..... Applicant.

Vs.

1. Union of India MCC through Chairman DOT/DTS/DTO
Commission, Ministry of Communication, New Delhi.
2. General Manager, Telecom District, Ajmer.
3. Dy. GMTD O/o GMTD Ajmer.
4. SDE (HRD) O/o GMTD Ajmer.

..... Respondents.

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Mr. N.K.Gautam, Counsel for the applicant.

Mr. Hemant Gupta, proxy counsel for

Mr. M.Rafiq, counsel for the respondents.

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C O R A M :

HON'BLE MR.A.K.MISRA, JUDICIAL MEMBER

HON'BLE MR. S.K.AGRAWAL, ADMINISTRATIVE MEMBER

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PER MR. A.K.MISRA :

The applicant had filed this O.A. with the prayer
that the Orders dated 25/31.3.1998 Annex.A/5 and dated
17.2.1999 Annex.A/7, be declared erroneous and in-effective
and the respondents be directed to treat the punishment for
with-holding three ~~years~~ increments without cumulative effect

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as per the order dated 30.10.1992 Annex.A/2 from 30.3.1989 to 29.3.1992 and the respondents be directed to grant time-bound one promotion to the applicant w.e.f. 30.3.1992, with all consequential benefits i.e. re-fixation of pay and arranging payment of difference of pay.

2. Notice of the O.A. was given to the respondents who have filed their reply to which a rejoinder was also filed by the applicant.

3. We have heard the learned counsel for the parties and have gone through the case file.

4. From the reply of the respondents it appears that the applicant was accorded time bound one promotion w.e.f. 4.3.1994 in pursuance of the scheme. It is alleged by the respondents that the applicant was punished with a penalty of stoppage of grade increment for three years while he was already undergoing the penalty of grade stoppage for ~~one~~ ^{two} years. Since the applicant was undergoing the penalty therefore he could not have been granted promotion and the higher scale under the scheme. The respondents also relied on the letter of DGP&T dated 3.5.1976 as quoted in CCS (CCA) Rules, 1955 in Para 19 of Rule 11. The respondents have prayed that the applicant is not entitled to the relief claimed. It was argued by the learned counsel for the applicant that in the instant case Para 20 under the same Rule would apply and not the Para 19 and consequently the penalty of stoppage of grade increment should be deemed to have come to an end in the year 1992. On the other hand the learned counsel for the applicant advanced arguments as per his pleadings.

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5. We have considered the rival arguments. In our opinion, the controversy would be regulated as per the decision of the Government dated 3.5.1976 which is mentioned in Para 19 of Rule 11 of the CCS (CCA) Rules, 1965, which is quoted hereunder :-

"19. Implementation when a series of penalties of stoppage of increments are imposed.--

Cases where a series of penalties of stoppage of increments are imposed on a Government servant, were being referred to from time to time for clarification as to how these orders will be implemented in actual practice. Such cases were under consideration of the Directorate for some time past and it has now been decided that where the disciplinary authority imposes penalties of stoppage of increment one after the other in separate cases on the Government servant, the effect of the first punishment order of stoppage of increment will continue for the period specified in the punishment order. Thereafter the pay of the Government servant will be raised by giving him increments which, but for the imposition of the penalty, would have been admissible to him and only then the second order of stoppage of increment will be made effective which will continue for the period specified in the second punishment order for stoppage of increment and so on.

(D.G. P.&T., Letter No.230/308/75-Disc.II, dated the 3rd May, 1976)."

6. In view of the above, the applicant could have been accorded the next higher scale and promotion under the time-bound scheme ^{only} after the currency of the second punishment was over. The applicant had in fact been accorded the said promotion in August 1994. In our opinion, Para 20 quoted under the said Rule and relied upon by the learned counsel for the applicant, does not apply in the instant case. Para 20 as relied on by the learned counsel for the applicant deals ^{with} the matter relating to different penalties imposed on a defaulting Government servant in respect of

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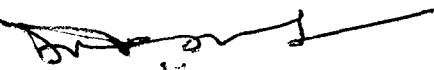
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penalty of lowering the grade twice by two different orders, which is not the case in hand. Even otherwise, imposition of two penalties of stoppage of grade increments, cannot be implemented concurrently. First penalty has to be ^{-ted} ~~implemen~~-first and the second subsequently. In view of this, Para 20 of Rule 11 of the CCS (CCA) Rules, 1965, does not help the applicant in the instant case.

7. In view of the above discussions, we do not find any merit in this application and the same deserves to be rejected.

8. The Original Application is, therefore, rejected and the parties are left to bear their own cost.



(S.K.Agrawal)
Adm.Member



(A.K.Misra)
Judl.Member

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