

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JATPUR BENCH, JATPUR.

DATE OF ORDER

17.05.02

OA No. 479/2000

Kedar Lal Bairwa son of Shri Chiranjit Lal Ji, aged about 40 years, resident of Railway Quarter No. 46, Gangapur City, working as JTO, Niwai Telephone Exchange, Niwai, District Tonk (Rajasthan).

....Applicant.

VERSUS

1. The Union of India through Secretary, Ministry of Communication, Department of Telecommunications, Sanchar Bhawan, New Delhi.
2. The Chief General Manager Telecom, Rajasthan Telecom Circle, Sardar Patel Marg, C-Scheme, Jaipur.

....Respondents.

Mr. K.S. Sharma, Counsel for the applicant.

Mr. R.L. Agarwal, Proxy counsel for

Mr. Bhanwar Bagri, Counsel for the respondents.

CORAM

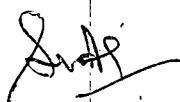
Hon'ble Mr. S.K. Agarwal, Member (Judicial)

Hon'ble Mr. H.O. Gupta, Member (Administrative)

ORDER

PER HON'BLE MR. S.K. AGARWAL, MEMBER (JUDICIAL)

In this OA filed u/s 19 of the Administrative Tribunal's Act, applicant makes the following prayers:-

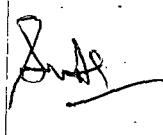


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- (i) to direct the respondents to pass an order for promotion to the applicant from the date from which his juniors were promoted.
- (ii) to direct the respondents to place the applicant at proper place in the gradation list.
- (iii) to direct the respondents to pay the applicant the difference of salary and arrears.

2. In brief, the case of the applicant, as stated by the applicant, is that he was selected as J.T.O. in the recruitment year 1983 but out of the selected panel of 210 JTOs, only 151 were given appointment and 59 candidates were not given appointment due to imposition of ban in appointment. Applicant filed an OA before the CAT Jodhpur Bench, which was transferred to this Bench and this Bench decided the OA vide its order dated 25.8.94. It is stated that in pursuance of the order passed in OA No. 690/92, the applicant was sent for training at Ahmedabad on 11.9.97 and 12.9.97. The second phase of training was completed on 29.1.98 and applicant was directed to join his duties under the TDE, Churu. It is stated that applicant was not considered for promotion on the ground that he was not eligible for promotion from the date on which his juniors were promoted as the applicant did not complete three years of service as JTO. Aggrieved by the said denial, this OA has been filed.

3. Reply was filed. In the reply it has been specifically stated that applicant was not eligible to be considered for promotion as TES Group 'B' as he did not complete three years of service as JTO and this is why his name was not considered for promotion. It is further stated that other JTOs have joined the department earlier than the applicant and they have completed three years of service as JTO. Therefore, they have been considered for promotion and since the applicant did not complete three years of service, he could be considered for promotion.



4. Rejoinder was also filed reiterating the facts already stated in the OA.

5. Heard the learned counsel for the parties and also perused the whole record.

6. Admittedly, the applicant was denied promotion on that he did not complete three years of service at JTO. It appears that Note 4 appended below TES Group 'B' Recruitment Rules, 1996 escaped from the notice of the respondent's department while denying promotion to the applicant on the post of TES Group 'B'.

7. TES Group 'B' NOTE 4 as appended in TES Group 'B' Recruitment Rules 1996 reproduced as under :-

"Where Juniors who have completed their qualifying eligibility Service are being considered for promotion, their Seniors would also be considered provided they are not short of the requisite qualifying/eligibility service by more than one year and have successfully completed their Probation Period if prescribed."

8. Admittedly while denying promotion, the respondents did not take into consideration the provisions contained in Note 4 appended below TES Group 'B' Recruitment Rules, 1996. If the Department could have taken into consideration the aforesaid provision, the applicant was eligible for promotion on the post of TES Group 'B' Officer as admitted that he has completed more than two years service and he also completed successfully the probation period. The applicant is a Scheduled Caste candidate and his ACR should have been forwarded for consideration for promotion on the post of TES Group 'B' Officer as he stands eligible for consideration as per rules notwithstanding of the fact that he has not

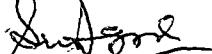
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completed three years of service as JTO. It is also an admitted fact that juniors of the applicant have been considered for promotion on the post of TES Group 'B' Officer. Therefore, in view of the facts & circumstances of this case and provisions given in Note 4 appended with TES Group 'B' Recruitment Rules, 1996, applicant is entitled to promotion w.e.f. 26.4.2000 from the date on which his juniors have been promoted and applicant shall also be entitled to all consequential benefits.

9. We, therefore, allow this OA and direct the respondents to consider the applicant for promotion as TES Group 'B' w.e.f. 26.4.2000 - from the date when his juniors were promoted. The applicant shall also be entitled to consequential benefits, if any.

10. No order as to costs.


(H.O. GUPTA)
MEMBER (A)


(S.K. AGARWAL)
MEMBER (J)

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