

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 18.11.2002

CP 97/2001 (OA 13/99)

H.R. Chaudhary s/o Late Shri Kana Ram Chaudhary r/o D-40, Chomu House,
Sardar Patel Marg, Jaipur.

... Petitioner

Versus

1. Shri Shyamal Ghosh, Chairman, Telecom Commission/Secretary,
Department of Telecom Services, 20, Ashok Marg, Sanchar Bhawan,
New Delhi.
2. Shri Roopnarain Bhardwaj, Chief General Manager,
Telecommunication, Rajasthan Circle, Jaipur.
3. Shri Arun Kumar, Principal General Manager (Telecom), District
Jaipur.

... Respondents

CORAM:

HON'BLE MR. JUSTICE G.L. GUPTA, VICE CHAIRMAN

HON'BLE MR. A.P. NAGRATH, ADM. MEMBER

For the Petitioner

... Mr. Mahendra Shah

For the Respondents

... Mr. B.N. Sandu

O R D E R

PER MR. JUSTICE G.L. GUPTA

Vide order dated 10.8.2001, passed in OA 13/99, it was directed
as follows :

"In the light of the above discussion, we dispose of this OA with
a direction to the respondents to communicate the orders
regarding regular promotion of the applicant to the cadre of TES
Group 'B' from the date of promotion of his immediate junior,
within two months from the date of this order. The applicant
shall be entitled to all consequential benefits including
payment of arrears becoming due on account of this promotion.
No order as to costs."

The applicant/petitioner has filed this Contempt Petition
alleging that the respondents have not complied with the directions
given by this Tribunal and hence they should be punished. Respondent
No. 3 was impleaded after filing the petition.

3. Reply has been filed, wherein it is stated that on receipt of the
judgement of the Court, the case was referred to DOT Headquarters, New
Delhi, and the respondents were advised to challenge the order of the
Tribunal by filing a writ petition. Writ petition has also been filed
in the case. It is further stated that due to mistake it was not

mentioned in the reply to the OA that a criminal case was pending against the applicant and due to the pendency of the criminal case recommendations of the DPC were kept in the sealed cover.

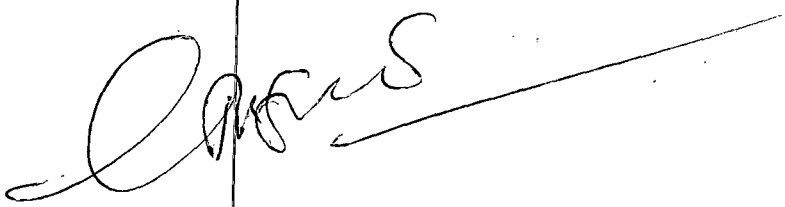
4. On 28.10.2002, arguments were heard for some time and the matter was posted for further arguments on 30.10.2002. On that day, the learned counsel for the respondents informed the court that the respondents have complied with the order of the Tribunal vide order dated 30.10.2002, a copy of which was placed on record. The matter was thereafter directed to be listed on 31.10.2002. On that day, the learned counsel for the applicant stated that the respondents have not fully complied with the directions given by the Tribunal in the order in question and he wanted to file rejoinder. He was permitted to do so. Instead of filing rejoinder, the applicant has filed an additional affidavit stating that the subsequent part of the order, which was with respect to the payment of arrears and consequential benefits, has not been complied with.

5. Today, the learned counsel for the respondents places on record a copy of the order dated 13.11.2002, wherein it is stated that Shri H.R. Chaudhary (applicant/petitioner), who has been promoted to TES Group 'B' from the date of promotion of his immediate junior vide order dated 30.10.2002, will get all consequential benefits including payment of arrears, due on account of his promotion, on joining the promotional assignment.

6. It is evident that by the subsequent order dated 13.11.2002, consequential benefits including payment of arrears, have been granted to the applicant. It is stated that the amount shall be paid when the applicant joins the promotional assignment.

7. Learned counsel for the applicant says that the condition that the applicant shall be paid the arrears on joining the promotional post ought not to have been stated in the order. We do not agree with the contention of the learned counsel for the applicant. The applicant has been given promotion with retrospective effect. The benefit of promotion can be given to him only after he joins the promotional post. Unless he joins the post, the respondents cannot be compelled to release the benefits in favour of the applicant.

8. It is evident that the respondents have now complied with the directions given by the Tribunal in its order dated 10.8.2001.

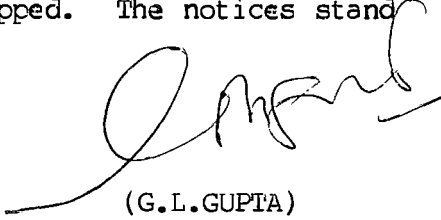
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9. It is true that some delay has been caused in complying with the order. However, the respondents have tendered unconditional apology in their reply for the lapse committed by them in issuing the order. When the order in question has been complied with and the respondents have tendered their unconditional apology, we do not think it a fit case to keep the contempt proceedings pending.

10. The contempt proceedings are hereby dropped. The notices stand discharged.


(A.P.NAGRATH)

MEMBER (A)


(G.L.GUPTA)

VICE CHAIRMAN