

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A.T.A No. 111/2000
R.A/C.P No.
E.P/M.A No.

1. Orders Sheet. O.A. 111/2000 Pg. 1 to 4
2. Judgment/Order dtd. 13/03/2002 Pg. 1 to 4 allowed
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 111/2000 Pg. 1 to 24
5. E.P/M.P. NIL Pg. to
6. R.A/C.P. NIL Pg. to
7. W.S. Pg. 1 to 11
8. Rejoinder NIL Pg. to
9. Reply. Pg. to
10. Any other Papers. Pg. to
11. Memo of Appearance.
12. Additional Affidavit.
13. Written Arguments.
14. Amendment Reply by Respondents.
15. Amendment Reply filed by the Applicant.
16. Counter Reply.

SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 111/2000 OF 199

Applicant(s) Sri A. H. Laskar

Respondent(s) Union of India and ors.

Advocate for Applicant(s) Mr. B. K. Sharma.

Advocate for Respondent(s) Mr. A. Ahmed.
Mr. A. Deb Roy,
Sr. C. G. Se

Notes of the Registry	Date	Order of the Tribunal
<p>493 928 15.3.2000</p> <p>24/3/2000</p> <p>4-4-2000</p> <p>Service of notices prepared and sent to D. Section for issuing of the same to the respondents through Regd. post with A.D. vide D.Os. 991 to 992.</p>	<p>28.3.2000</p>	<p>Heard Mr B.K.Sharma, learned Sr. counsel for the applicant and Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents.</p> <p>Application is admitted. Issue notice on the respondents.</p> <p>List on 1.5.2000 for written statement and furthers.</p> <p>Mr Sharma prays for an interim order. Pendency of this application shall not be a bar for the respondents to consider promotion of the applicant.</p>
	pg	Member

10

2

CA. 111/2000

N

Notes of the Registry	Date	Order of the Tribunal
<u>1-5-00</u> NO WTS filed. by	1-2-00	NO WTS has been filed. NO DB is available. Adj'd to 19.5-00. B/O by
<u>17-5-00</u> NO WTS has been filed. by Notice duly served on R. No. 1.	19.5.00	On the prayer of Mr A. Deb Roy, lear- ned Sr.C.G.S.C one month time is allowed for filing of written statement. List on 23.6.00 for order. Jm Member (J)
<u>23-6-00</u> Ex. 2000	23.6.00	There is no Bank today. Adj'd to 20.7.00. B/O by
Order dtd 11/7/00 Communicated to Mr A. Deb Roy Adv. S. A Deb Roy, Sr. Chs C vide D/No. 1837 & 1838 dtd 13/7/00 11/7/00	11.7.00	Present : Hon'ble Mr.S. Biswas, Administrative Member. Heard Mr.A. Ahmed, learned counsel for the applicant and Mr.A. Deb Roy, learned Sr.C.G.S.C. for the respondents. The learned counsel for the applicant pointed out that the appli- cant was not promoted as there was a penalty against him. He was promoted but the posting order was held up back subject to vigilance clearance. A lot of facts in this case requires clear refutation or confirmation by the respondents. As written statement has not yet been filed, the respondents are directed to file the same within two weeks failing which the case will be decided ex parte on merit, on the next date of hearing. Let the case be posted on 14.8.00 for orders. S. Biswas Member (A)
<u>8-9-2000</u> Written Statement has been filed by the respondents No. 1, 2, 3, 4. B/O		
<u>21-9-2000</u> WTS has been filed. B/O		
	mk 14-8-00	Jm 14-8-00 22-9-00 B/O

Notes of the Registry	Date	Order of the Tribunal
<p>Written Statement has been filed.</p> <p><i>By</i> 25.10.2000</p> <p>The case is ready for hearing</p> <p><i>By</i> 4.1.2001</p> <p>7/1/2001 Copy of the Judgment has been sent to the Office for ready reference to the applicant as well as to Sr. Clerk for the Resp.</p> <p>HS</p>	<p>22.9.2000</p> <p>nkm</p> <p>27.10.00</p> <p>mk</p> <p>5-1-2001</p> <p>13.3.01</p> <p>trd</p>	<p>Present: Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman</p> <p>Written statement has been filed. Put up for orders on 27.10.00.</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>Written statement has already been filed. In the circumstances, let the case be posted for hearing in Division Bench on 5.1.2001.</p> <p><i>[Signature]</i> Vice-Chairman</p> <p>As per. Admitted to 13.3.2001. b/o H.S. 5.1.</p> <p>Heard learned counsel for the parties. Hearing concluded. Judgement delivered in open court, kept in separate sheets. The application is allowed in terms of the observations made in the order. No costs.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>

Notes of the Registry	Date	Order of the Tribunal
	13.3.01	<p data-bbox="795 353 1567 679">Heard learned counsel for the parties. Hearing concluded. Judgement delivered in the open court, kept in separate sheets. The application is allowed in terms of the observations made in the order. No costs.</p> <div data-bbox="795 719 1567 801"><div>Member</div><div>Vice-Chairman</div></div>

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./XXX. No. 111/2000... of

DATE OF DECISION 13.3.2001

A.H. Laskar

PETITIONER(S)

Mr. B.K.Sharma

ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

Union of India & Ors.

RESPONDENT(S)

Mr. A. Deb Roy, Sr. C.G.S.C.

ADVOCATE FOR THE
RESPONDENTS

THE HON'BLE MR. JUSTICE D.N.CHOWDHURY, VICE-CHAIRMAN.

THE HON'BLE MR. K.K.SHARMA, MEMBER (A).

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ? 7-5 ✓
3. Whether their Lordships wish to see the fair copy of the judgment ? 7-5 ✓
4. Whether the judgment is to be circulated to the other Benches ? 7-5 ✓

Judgment delivered by Hon'ble Vice-Chairman.

X

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 111/6f02000.

Date of decision : This the 13th day of March, 2001.

Hon'ble Mr. Justice D.N.Chowdhury, Vice-Chairman.

Hon'ble Mr. K.K.Sharma, Member (A).

A.H. Laskar,

Junior Telecom Officer Cable,

Office of the S.D.O. Phones,

Kalapahar, Guwahati - 781 018.

...Applicant

By Advocate Mr. B.K.Sharma.

-versus-

1. Union of India, represented by
the Secretary to the Government of India,
Department of Telecommunication,
New Delhi-1.

2. The Chief General Manager, Telecom,
Assam Telecom Circle, Soniram Bora Road,
Ulubari, Guwahati-781 007.

...Respondents

By Advocate Mr. A. Deb Roy, Sr. C.G.S.C.

O R D E R (ORAL)

CHOWDHURY, J. (V.C.).

The only issue that requires adjudication as to the admissibility of the promotion of the applicant with retrospective effect. The applicant while working as Junior Telecom Officer, a disciplinary proceeding was initiated under Rule 14 of the CCS (CCS) Rules, 1965 by Memo dated 24.3.1982. A full fledged enquiry was held and the enquiry officer submitted his report on 15.3.1999 holding that the charges were not proved. The disciplinary authority considered the report and thereafter passed the order dated 29.4.1999 exonerating the applicant from the charges. In the meantime by order

dated 21.10.98 the applicant alongwith a number of JTOs were promoted to the grade of Telecom Engineer TES Group B. However, in view of the disciplinary proceeding the order of promotion was not given effect to. Subsequently the applicant was exonerated from the charges and submitted representation before the authority. Failing to get appropriate remedy the applicant came to this Tribunal by way of this application for a direction upon the respondents to issued order of posting of the applicant on promotion in terms of the order dated 21.10.98 with retrospective effect with reference to the date of posting on promotion of his immediate junior in the cadre.

2. The respondents submitted its written statement and stated that though the enquiry proceeding was completed but the follow up action on the enquiry report was incomplete so much so that the same was done without obtaining the report of the C.V.C. It was also alleged that the order of the disciplinary authority was premature and could not be treated as final outcome of the case. The plea raised by the respondents cannot be upheld simply on the ground that respondents are not entitled to assail their own order. Be that as it may, in the meantime the applicant was promoted by order dated 22.9.2000. The order of promotion was given effect to with effect from 25.9.2000 and has been posted under GMT, Kamrup, Guwahati.

3. Mr. B.K.Sharma, learned Sr. counsel appearing on behalf of the applicant now pressed for a direction to give effect the promotional benefit with retrospective effect on and from the date on which his immediate junior was promoted. Mr. Sharma, learned counsel submitted that when disciplinary proceeding was ended the benefit of promotion was to be given in his

Contd...


favour. The learned counsel Mr. Sharma further submitted that the disciplinary proceeding that was initiated against the applicant since ended in his favour there was no question of denying him the benefit of retrospective promotion and in support of his contention the learned counsel Mr. Sharma referred to the decision rendered by the Supreme Court in the case of Union of India Vs. K.V.Jankiraman reported in AIR 1991 SC 2010, State of Madhya Pradesh and Another Vs. Syed Naseem Azhir and Ors., reported in (1992) SCR Supp, 962, State of A.P. Vs. K.VL. Narasimha Rao and Others, reported in (1999) 4 SCC 181, Delhi Jal Board Vs. Mahinder Singh, reported in AIR, 2000,2766.As per the aforesaid decisions the right to be considered in the DPC. DPC is a fundamental right guaranteed under Article 16 of the Constitution provided a person is eligible for promotion and in the zone of consideration. The rules also provides for keeping the promotion abeyance till the completion of any pending disciplinary enquiry but when the findings of the enquiry proceeding exonerated, the officer would be promoted. The sealed cover procedure also envisaged of keeping in abeyance the question of promotion till completion of the disciplinary proceeding. The applicant was promoted by the order 21.10.98. The benefit of this promotion would be related back. Order of promotion has been placed before us though it did not indicate as such as to the date of effect of the order. However as alluded earlier an officer who is exonerated from a disciplinary proceeding is entitled to the benefit of flowing from the promotional order.

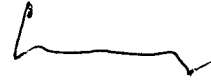
In the circumstances the respondents are directed to pass further order refixing the seniority

Contd...

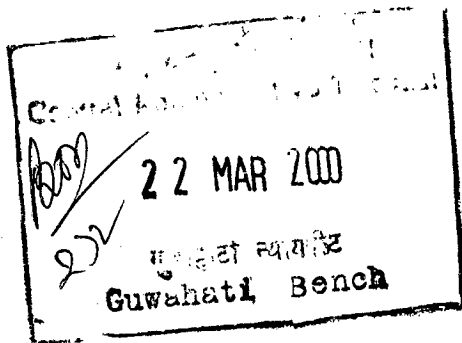
of the applicant on the basis of the promotion order taking note of his exoneration in the light of the observations made above. Mr. B.K.Sharma, learned counsel for the applicant submitted that in view of the clear legal position the applicant would be entitled to all service benefits including salaries as per the ratio of decision mentioned above. Since we have sent the matter for appropriate consideration of the respondents we refrain from passing any order thereon, leaving the matter entirely on the respondents to pass appropriate order in accordance with law in conformity with the decisions mentioned above.

The application is allowed to the extent indicated above. There shall, however be no order as to costs.


(K.K.SHARMA)
Member(A)


(D.N.CHOWDHURY)
Vice-Chairman

trd



*Filed for
Ayand Hagne Laskar
through Advocate
16/3/2000*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL :GUWAHATI BENCH.

Title of the Case O.A. No. *///* of 2000

BETWEEN

A.H. Laskar,
Junior Telecom Officer Cable,
Office of the S.D.O. Phones,
Kahilipara, Guwahati - 781 018.

--- Applicant

AND

Union of India and others

--- Respondents

I N D E X

<u>SL.NO.</u>	<u>DESCRIPTION OF DOCUMENTS</u>	<u>PAGE NO.</u>
1)	Application	1 to 14
2)	Verification	15
3)	Annexure -1 Order dated 21.10.98 promoting the applicant to the Grade of T.E.S. Group 'B'.	16 to 18
4)	Annexure -2 Order dated 29.4.99 exonerating the applicant from the charges levelled against him.	19 to 21
5)	Annexure -3# Representations submitted series 2 & 3 B by the applicant.	22 to 24

Filed by - *Abhay Kumar*
Advocate

Date of filing : 16.3.2000

Registration No. :

*Filed by
Ayazul Haque Laskar
16/3/2000
12*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

Title of the Case O.A. No. *///* of 2000

BETWEEN

A.H. Laskar,
Junior Telecom Officer Cable,
Office of the S.D.O. Phones,
Kalapahar, Guwahati - 781 018.

--- APPLICANT

AND

1. Union of India, represented by
the Secretary to the Government of India,
Department of Telecommunication,
New Delhi - 1.
2. The Chief General Manager, Telecom,
Assam Telecom Circle, Soniram Bora Road,
Ulubari, Guwahati - 781 007.

--- RESPONDENTS

DETAILS OF THE APPLICATION

1. PARTICULARS OF THE ORDERS AGAINST WHICH APPLICATION
IS MADE

The present application is not directed against
any particular order but has been filed for relief
towards implementation of the order of promotion of
the.....

[Signature]

13

(2)

the Applicant as issued by the Secretary to the Government of India, Department of Telecommunication dated 21.10.98 on the basis of recommendation made by the D.P.C.

(Annexure)

2. JURISDICTION OF TRIBUNAL

The applicant declares that the subject matter of the application for which the applicant seeks redressal is within the jurisdiction of the Tribunal.

3. LIMITATION

The applicant further declares that the present application is within the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE

4.1 That the applicant is at present working as J.T.O. Cables in the office of the S.D.O. Phones, Kalapahar, Guwahati-781 018. He has a brilliant academic career from H.S.L.C. Examination onward and passed his B.Sc. Examination in the year 1977.

4.2 That the applicant joined in the Department of Telecommunication in the year 1976 as T.S. Clerk.

Thereafter.....

14
(3)

Thereafter on the basis of performance in the Departmental Competitive Examination for recruitment of Phone Inspector, being selected and appointed, the applicant joined in the post of Phone Inspector in the year 1980.

4.3. That while serving as ^{Phone Inspector} ~~T.E.S.~~, the applicant appeared in the Departmental Competitive Examination in the year 1982 for the post of J.E. (subsequently re-designated as J.T.O) in which he came out successfully. Thereafter on successful completion of training the applicant joined in the cadre of J.E. in February, 1985.

4.4. That in the year 1989, the applicant appeared in the qualifying examination for promotion to the Grade of T.E.S. Group 'B' and being qualified he became eligible to be promoted to the Grade of T.E.S. Group 'B' in the service.

4.5. That the applicant begs to state that all through the service period of the applicant, the applicant discharged his duties and performed his works with great sincerity, due diligence and to the entire satisfaction of all concerned. But on account of shortage of staff in the grade when necessity arose for making local officiating arrangement by the Head of Circle, pending regular promotion by the Telecom Commission, the applicant had been deprived
three.....

5

(4)

three times of officiating promotion although the applicant was qualified and eligible for the same and though some persons junior to him were also given the benefit of officiating promotion by the Respondent No. 2 most arbitrarily and illegally without any justifiable reason or lawful excuse for such discriminatory treatment with the applicant.

4.6. That on all those occasions when officiating promotion orders were issued by the Respondent No.2 arbitrarily denying the same benefit to the applicant, the applicant submitted representation to the respondent authority and hence ultimately the Respondent No. 2 issued order in respect of the applicant alone giving officiating promotion to the applicant in November, 1997. But subsequently in April, 1998 the applicant had been reverted to the post of J.T.O consequent upon and simultaneously with the issuance of charge-sheet and drawing up of Disciplinary Proceeding against the applicant in connection with an alleged incident said to have taken place in the year 1994.

4.7. That the applicant begs to state that before the aforesaid issuance of charge-sheet and drawing up of Disciplinary Proceeding against the applicant, the name of the applicant had been forwarded to the D.P.C. along with other similarly situated persons

for.....



16

(5)

for consideration for regular promotion to the Grade of T.E.S. Group 'B' considering the suitability and eligibility of the applicant and on the basis of D.P.C's recommendations, the Member, Telecom Commission has been pleased to issue the order of promotion of the applicant to the Grade of T.E.S. Group 'B' vide Sl. No. 1312 of the order dated 21.10.98. But because of ongoing Disciplinary Proceeding the posting order of the applicant has not been issued by the Respondent No. 2.

A copy of the said order of promotion dated 21.10.98 is annexed herewith and marked as ANNEXURE - 1.

4.8. That as stated earlier, the Disciplinary Authority after issuance of charge-sheet and drawing up of Disciplinary Proceeding against the applicant, appointed the Enquiry Officer and Presenting Officer by his order dated 29.4.99 to conduct the proceeding. The Enquiry Officer thereafter accordingly conducted the enquiry and on completion of the same submitted his report with the findings that the charges framed against the applicant are not proved whereupon the Disciplinary Authority issued order under Rule 14 of the CCS (CCA) Rules, 1965 exonerating the applicant from the charges levelled against him.

A copy.....



X
✓

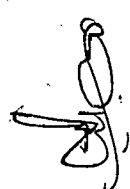
(6)

A copy of the said order of exoneration is annexed herewith and marked as ANNEXURE - 2.

4.9. That the applicant having been exonerated from the charges levelled against him as referred to above, it was incumbent on the Respondent Authority, viz. Respondent No. 2 to issue posting order of the applicant on promotion in terms of order dated 21.10.98 issued by the Ministry of Communication, Department of Telecom. But the Respondent Authority is sitting tight over the matter without any justifiable reason whatsoever. The applicant thus submitted several representations before the Respondent Authorities praying for his promotion posting with reference to the date of posting of his immediate junior along with other consequential benefit thereof. But no action whatsoever has been taken by the respondent in this regard till date and hence having no other alternative, the applicant now approaches this Hon'ble Tribunal for appropriate relief.

Copies of some of the representations submitted by the applicant are annexed herewith and marked as ANNEXURE- 3 series.

4.10. That the applicant begs to submit that the Disciplinary Proceeding referred to herein above was initiated.....

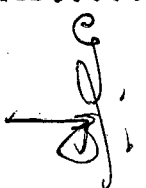


12

(7)

initiated against the applicant with regard to an alleged negligence of duty had come to an end long before the issuance of the charge-sheet and drawing up of Disciplinary Proceeding against the applicant. Subsequent opening up of the same and drawing up of Disciplinary Proceeding as well as discriminatory treatment meted out to the applicant in giving officiating promotion and now withholding promotion even after complete exoneration from the charges brought against the applicant goes to show the motivated and mala fide intention of the Respondent Authority.

4.11. That the applicant submits that the Revised guidelines issued by the Department of Personnel & Training vide O.M. No. 22011/4/91-Estt.(A) dated 14th September, 1992 D.O.T. No. 1-1/91-reg. dated 11.01.93 clearly mentioned about review of the case of Government Servant against whom Disciplinary Proceeding/Criminal prosecution is not concluded even after the expiry of two years from the date of meeting of the first D.P.C. which kept its findings in respect of the Government servant in a sealed cover. In such a situation, the appointing authority may review the case of the Government servant, provided he is not under suspension, to consider the desirability of giving him ad hoc promotion keeping in view certain aspects. Thus when the revised guidelines.....



(8)

guidelines stress upon the desirability of giving ad hoc promotion even during continuance of Disciplinary proceeding, there is no justifiable reason to keep the promotion pending after conclusion of the disciplinary proceeding when the same ended in exoneration. Rather, the impugned action of the Respondents in keeping pending the promotion posting of the applicant is directly in conflict with the contents and spirit of the revised guidelines referred to above and, therefore, the interference of this Hon'ble Tribunal is necessary for redressal of grievances of the applicant.

5. GROUND FOR RELIEF WITH LEGAL PROVISION

(a) For that there being no justifiable reason for not giving promotion posting to the applicant in terms of the order at Annexure-1 after being exonerated from all the charges vide order at Annexure- 2, appropriate direction is required to be issued by this Hon'ble Tribunal.

(b) For that the Revised guidelines issued by the Department of Personnel & Training Vide O.M. No. 22011/4/91-Estt(A) dated 14th September, 1992 D.O.T. No. 1-1/91-reg. dated 11.01.1992 clearly laid down the procedure to be followed by the authorities concerned for promotion/confirmation

of.....



(9)

of employees against whom disciplinary/Court proceedings are pending or whose conduct is under investigation. Relevant portion of the said guidelines are quoted below :-

"Action after completion of disciplinary case/criminal prosecution :

3. On the conclusion of the disciplinary prosecution which results in dropping of allegations against the Government servant, the sealed cover or covers shall be opened. In case, the Government servant is completely exonerated, the due date of his promotion will be determined with reference to the position assigned to him in the findings kept in the sealed cover/covers and with reference to the date of promotion of his next junior on the basis of such position. The Government servant may be promoted, if necessary, by reverting the juniormost officiating person. He may be promoted notionally with reference to the date of promotion of his juniors.....
....."

The applicant craves leave to produce the aforesaid guidelines at the time of hearing of this application.

contd....



21

(10)

(c) For that the guidelines referred to above is unambiguous and clear enough for giving promotion posting of the applicant immediately on conclusion of the Disciplinary proceeding and on exonerating the applicant from all the charges. There is no justifiable reason on the part of the respondents for not following the aforesaid guidelines in case of the applicants.

(d) For that it is obligatory on the part of all concerned to follow the guidelines issued by the higher authorities unless the same are contrary to any provisions of law or rules or unless the same are declared illegal or ultra vires by any Court or law. But in the instant case the aforesaid guidelines appears to be framed in supersession of all the earlier instructions and in conformity with the decisions of the Hon'ble Supreme Court rendered in Union of India etc. vs. K.V. Jankiraman etc. (AIR 1991 SC 2010) and any violation of the aforesaid guidelines amounts to violation of the orders passed by the Hon'ble Supreme Court referred to above.

(e) For that it is settled principle of law that when a disciplinary proceeding is drawn up against any Government servant, he may encounter with several adverse situation, but if on conclusion of the.....



22

(11)

the disciplinary proceeding the Government servant is exonerated from all the charges brought against him, he is entitled to get all the benefits including seniority, promotion, back wages and any other consequential loss suffered by him because of the disciplinary proceeding.

(f) For that prima facie there is violation of Articles 14 and 16 of the Constitution of India. No prudent person properly instructed in law would have acted otherwise than in accordance with the aforesaid guidelines and the settled principle of law. The respondent authority has failed to perform his duty vested on him by law and, as such, appropriate directions may be issued by this Hon'ble Tribunal for giving relief to the applicant.

(g) For that the impugned action of the respondent No. 2 in not giving promotion posting of the applicant in terms of the order dated 21.10.98 (Annexure-1) is not only violative of the guidelines dated 14.9.92, but also the same is in direct confrontation with Articles 14 and 16 of the Constitution of India.

(h) For that the impugned action of the Respondent No. 2 in not giving promotion posting of the applicant is arbitrary, illegal, motivated and malafide and liable to be interfered with by this Hon'ble Tribunal.

(1).....



29

(12)

(1) For that in any view of the matter, there being violation of the guidelines issued by the higher authorities as well as violation of the settled principles of law, the applicant is entitled to the relief sought for in this application.

6. DETAILS OF REMEDIES EXHAUSTED

The applicant declares that he has availed of all the remedies available to him under the relevant service rules.

7. MATTERS NOT PENDING WITH ANY OTHER COURT OR TRIBUNAL

The applicant further declares that the matter regarding which this application has been made is not pending before any Court of law or any other authorities or any other Bench of the Tribunal.

8. RELIEF SOUGHT FOR

Under the facts and circumstances stated above; it is most respectfully prayed that the Hon'ble Tribunal may be pleased to admit this application, call for the records of the case and upon hearing the parties on cause or causes that may be shown and on perusal of the records be pleased to grant the following relief to the applicant :-

(a).....



(13)

- (a) The respondent No. 2 may be directed to issue orders of posting of the applicant on promotion in terms of the order dated 21.10.98 (Annexure-1) with retrospective effect with reference to the date of posting on promotion of his immediate junior in the cadre.
- (b) To give all consequential service benefit including back wages/arrears of salary and wages.
- (c) Cost of the application.
- (d) Any other relief/reliefs to which the applicant is found entitled as may be deemed fit and proper by the Hon'ble Tribunal.

9. INTERIM ORDER PRAYED FOR

The applicant further prays that in the interim, this Hon'ble Tribunal may direct the Respondent No. 2 to issue posting order on promotion of the applicant in terms of order dated 21.10.98 (Annexure-1) in compliance with the guidelines dated 14.9.92.

contd.....

25

(14)

10. The application is filed through an Advocate.

11. PARTICULARS OF THE I.P.O.

- 1) I.P.O. No. OG. 493978
- 2) Date 15.3.2000
- 3) Payable at Guwahati.

12. LIST OF ENCLOSURES :

As indicated in the Index.

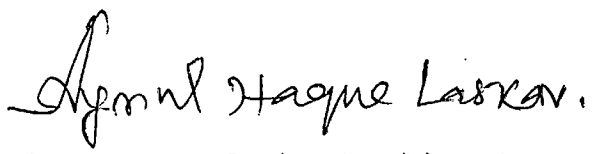
Verification.....

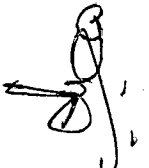


V E R I F I C A T I O N

I, Aynul Haque Laskar, Son of Late Nimar Ali Laskar, aged about 45 years, at present serving as A.T.O. Cable, in the office of the S.D.O. Phones, Kalapahar, Guwahati-18 under the Respondents, do hereby verify and state that the statements made in paragraphs 1, 2, 3, 4.1 to 4.6 are true to my knowledge, those made in paragraphs 4.7, 4.8 & 4.9 being matters of records are true to my information derived therefrom and the rests are my humble submission before this Hon'ble Tribunal.

And I sign this verification on this the 15th day of March, 2000 at Guwahati.


Signature of the Applicant



-16-

Amur = 11

2

No 2-7/98-SIG-II
Government of India
Ministry of Communication
Department of Telecomm.
Sanchar Bhawan.

Dated 21.10.98

O R D E R

Subject: - Promotion and posting of JTO to TES Gr.
'B'.

Member, Telecom. Commission is pleased to appoint the Junior Telecom. Officers as per the list enclosed to the Telecommunication Engineering Group 'B' from the date they take over the charge of the post and until further orders, and to post them in the circles/districts/units etc. as indicated against their names, provided no vigilance/disciplinary case is pending or any punishment is current against any of the officials mentioned in the list. In case any disciplinary/vigilance case in terms of DOP&T's order No. 22011/41/91-Estt(A) dated 14.9.92 is pending/initiated against any of the officials mentioned in the list after the issue of these orders but before joining of the officials on promotion, the fact should be reported to this office immediately and the concerned officer should not be promoted or relieved for posting without specific orders from this office.

2. The Heads of Circles concerned shall decide the stations of posting of officers allotted to them within 20 days from the date of receipt of this order. All the officers concerned shall be required to join the new assignments within 40 days from the date of issue of posting orders failing which the orders of promotion in respect of such officers shall be cancelled without any further notice.

3. The Heads of Circles concerned shall ensure that no leave is granted to any one of the officials promoted till they join their new stations of posting/circle/districts. Relief of the officers shall also not be withheld on the grounds that the officials has submitted a representation for change of posting.

4. The Heads of Circles concerned shall furnish consolidated list of officers indicating, date of issue posting orders, and their date of release/joining, immediately on expiry of period mentioned in para 2 above. Charge reports need not be endorsed to this office.

5. Proforma Promotion orders of following officers who are out of cadre will be issued separately and posting orders will be given on their repatriation to parent Department.

Contd...2/

*certified that the
Amusement is the
photo copy of the
original of the
order of Post
Promotion*

Just 23
21.10.98

-17-

28

-2-

Sl. No.	El. No.	Name	Unit
1.	18932	Ragothaman S.	MTD
2.	19563	L. Ramamurthy	MTD
3.	20691	Satyanarayana V.V.V.	AP
4.	21260	Sridharan TK	MTD
5.	21573	Lakshma Rao K	AP

6. Seniority of the officials promoted in this order shall be determined in accordance with the Rules in force and will be issued separately.

7. The above promotions are subject to the final outcome of O.P and O.A.'s pending in the Kerala High Court and various CAT, Benches as indicated below:

- | | | |
|----|-------------------|-----------------------|
| 1. | O.P. No. 11607/98 | High Court of Kerala. |
| 2. | O.A. No. 1085/96 | CAT Principle Bench. |
| 3. | O.A. No. 930/97 | CAT Mumbai. |
| 4. | O.A. No. 876/97 | CAT Mumbai. |
| 5. | O.A. No. 239/98 | CAT Cuttack. |
| 6. | O.A. No. 95/98 | CAT Cuttack. |
| 7. | O.A. No. 286/96 | CAT Principle Bench. |
| 8. | O.A. No. 834/98 | CAT Chennai. |

[Signature]
(S.M. RAUSHAL)

ASSTT. DIRECTOR GENERAL (SGT)

Copy to :-

1. All Chief General Managers Telecom circles.
2. All Chief General Manager Maintenance Circles/Metro Telecom. Circles/ Project Circles/T&D Circle/ TTC Jabalpur/Telecom. Stores Calcutta/NETF/QA/MTNL New Delhi and Bombay/Railway Electrifications/ D.N.W./ALTTC Ghaziabad.
3. All Chief Account Officers of Circles/Districts/Units concerned.
4. Pay and Account Officers (HQ) DOT New Delhi.
5. DOG(P)/DIR(ST-I/II)/ADG(SGT).
6. Sr CA to Adviser (HRD)
7. Pay Bill/SG(STG-I/II/III)/PAT/TE/NCG.
8. General Secretary, TESA/JTO Association.
9. Guard File/Order Bundle.

PROMOTION TO TIES GROUP 'B'

***** PRESENT POSTING *****
***** PROMOTION *****

REC.
UNIT

CTD	CTD	NE
MP	T&D	T&D
RJ	RJ	RJ
GJ	GJ	GJ
HP	HR	HR
ER	ETR	ETR
MTNL BY	MTNL BY	MTNL BY
TN	STR	STR
TN	STR	STR
KR	KR	KR
UP(W)	UP(W)	UP(W)
MTNL,ND	MTNL,ND	MTNL,ND
RT	RJ	RJ
KR	KR	KR
MTNL BY	MTNL BY	MTNL BY
AS	AS	AS
AP	AP	AP
UP(W)	UP(W)	UP(W)
GJ	WTR	WTR
MH	MH	MH
MP	MP	MP
AP	AP	AP
RJ	RJ	RJ
MP	MP	MP
RJ	RJ	RJ
MTNL BY	MTNL BY	MTNL BY
KTK	KTK	KTK
KTK	KTK	KTK
RJ	RJ	RJ
TN	STR	STR
MTD	MTD	MTD
MTD	MTD	MTD
TN	TN	TN
MH	MH	MH
UP(W)	UP(W)	UP(W)
TN	STR	STR
MTNL,ND	MTNL,ND	MTNL,ND
KTK	STR	STR
MTNL,ND	MTNL,ND	MTNL,ND
AP	STP	STP
TN	STR	STR
RJ	RJ	RJ
KR	KR	KR
KTK	KTK	KTK
HP	HP	HP
UP(E)	UP(E)	UP(E)
MTD	MTD	MTD
KR	KR	KR

28. 8. 23
21. 8. 98

DEPARTMENT OF TELECOMMUNICATIONS
OFFICE OF THE GENERAL MANAGER, KAMRUP, ULUBARI, GUWAHATI-7

NO. GM/GH/X-51 | Dispur /97-98. Dt. Guwahati the 19/4/98/99.

Sri A.H. Laskar, JTO under DEO Cable) Construction, Guwahati was proceeded under Rule -14 of CCS (CCA) Rules 1965 vide GM/GH/X -51 / Dispur /97-98 / 2 of 24.3.98. The article of charge as annexure -I was that Sri A.H. Laskar, JTO while functioning as JTO O/D -II, Dispur under SDOP (Dispur) committed gross irregularities by violating deptt. Rules & Procedures intentionally by providing Two new connections against a single Advice Note in Two Cases in his section and thus failed to maintain his devotion to duty, absolute integrity and acted in a manner unbefitting of a Govt. servant thereby contravening the provisions of Rules 3 (I) (II) (III) of CCS (Conduct) Rules 1964.

That the charges as per Annexure II are that the said Sri A.H. Laskar while working as JTO O/D -II, Dispur under SDOP (Dispur) provided Two Telephone Connections bearing nos. 563879 and 564602 as new connections in the name of Sri Khagendra Nath Kalita on 14.12.92 and 6.11.93 respectively against the A/N No. 01119 dt 20.11.92.

In another case, Telephone No 564625 was provided as New connection on 3.11.93 in the name of Sri Roshanlal Gupta against A/N No. NPC 08186 dt. 10.1.91 in the non genuine location and in the name of a non genuine person, by supplying a Photostatic Copy of the A/N to JTO (Indoor) duly certified by the SDOP (Dispur) whereas against the same A/N No. 08186 dt. 10.1.91, a Telephone No. 562580 was already provided as New connection to the genuine person Sri Sanjoy Gupta at the genuine location on 11.6.92 itself by Sri N.C. Sutradhar JTO O/D - I, Dispur.

Having received the reply from the said Sri A.H. Laskar for non acceptance of the charges the DGM (Admn & OP) Kamrup Telecom. District (Disciplinary Authority) appointed the Inquiry officer Sri R. Dutta Choudhury, SDE (Computer) and Sri J. Ahmed SDOP/E-1 appointed as Presenting Officer

Contd....2/-

*Certified that the
Annex-2 is the original
photocopy of the original
document.*

respectively vide Memo No GM/GM/X-51 /Dispur /97-98 dt. 3.9.98 .The SPS Sri A.N. Lasker nominated Sri S.K. Sikdar as Defence Assistant .

Sri R. Dutta Choudhury I.O. has started inquiry with preliminary hearing on 21.9.98. and regular hearing took place on 29.9.98. , 6.10.98. and 8.10.98. State witness was addressed by the P.O. in support of the charges .The P.O. has submitted the documentary evidence as stated in Annexure -III in support of the charges.

Sri A.K. Sarkar .P.I offered himself as Defence witness and has also submitted his oral statement.

At the end of oral hearing of both the Parties they were directed to submit their respective written brief and accordingly the Prosecution brief of the P.O vide Memo No NO/E -1 /98-99 dt. 16.10.98. and the defence brief of the SPS dt. 27.10.98 were received on 27.10.98.

On scrutiny of the whole case and relevant documents submitted by both the Parties the I.O. has submitted his inquiry report vide his Memo No. GM/dept. inquiry /98-99 dt. 15.3.99 stating there in that the P.O. failed to prove the charges against the SPS.

On careful perusal of the inquiry Report and all aspects of the Proceeding against the SPS I fully agree with the findings of the I.O.

Contd....3/-

ORDER

Hence, I, Sri Ram Pratap A.M. (W) Kamrup Telecom district, Guwahati in exercise of the powers conferred upon me under Rule -14 of the CCS (CCA) Rules, 1965 hereby exonerate from the charges levelled against the SPS Sri A.H. Laskar, JTO O/D -II, Dispur.

(Ram Pratap)
Area Manager (West)
Kamrup Telecom District
Panbazar Telephone Exchange Bldg.
Guwahati-1.

Copy to:

1. Sri A.H. Laskar, JTO (O/D of DE cable), Guwahati.
2. CAO (Cash) of GMTD/GH
3. CGMT, Guwahati, Assam Telecom. Circle
4. SPSO. 1/O, SDE (Computer) of O G.M. Kamrup Telecom. Dist., Guwahati.
5. DGM (Admin & Pkg) of O G.M. Kamrup Telecom. Dist., Guwahati.
6. SDE (Wg) of O G.M. Kamrup, Guwahati.
7. V.O. Civil office, Guwahati.

(Ram Pratap)
Area Manager (West)
Kamrup Telecom District
Panbazar Telephone Exchange Bldg.
Guwahati-1.

ANNEXURE - 3 A

To

The Chief General Manager,
Assam Telecom Circle,
Guwahati - 781 007.

(Through proper channel)

Sub :- Second representation in respect of regularisation
of promotion to TES Gr-B after exoneration in
Disciplinary Proceedings.

Respected Sir,

Most humbly I beg to lay before you the following
few lines for favour of your kind and natural consideration :-

1. That Sir, I have been promoted to TES Gr-B vide DOT's Order No. 2-7/98 STG-II dtd. 21.10.98 where my name is included in Sl. No. 1312 with Staff No. 35085.
2. That Sir, my promotion was held up in C.O. because of pendency of disciplinary proceedings against me in the month of Nov'98.
3. That Sir, disciplinary proceedings and enquiry against me came to an end in the month of Feb'99 and I am exonerated from charges levelled against me by the Disciplinary authority vide it's letter No. Gu/GH/Y-61/Dispur/97-98 dated 29.4.99.
4. That Sir, as belongs to Gr-C officials and my disciplinary proceedings limited to Circle only as per P&T Manual Volm. III, after exoneration from disciplinary proceedings, I am supposed to get my due promotion.

contd.....

5. That Sir, due to non-getting of my promotion order from C.O. I submitted one representation to you through proper channel on 23.6.99 to release me from mental agonies and to overcome from sense of humiliation. But till today I did not get any information about my fate. However a copy is enclosed herewith.

6. That Sir, on the basis of my original Cadre (Gr-C) I am supposed to get my promotion under present situation.

Therefore, I as an humble prayer, beg to your honour to do the natural justice to me for my legitimate claim and issue my promotion order early to avoid further mental agonies and sense of humiliations. Considering the period after issue of exoneration letter, I beg to state that if I am not getting my promotion order within 15 days, then I shall have no other alternatives but to take shelter under Court of law to achieve my legitimate claim of promotion and to overcome sense of humiliation and financial hardships at present situation.

I as a duty bound servant hope your honour will do the natural justice to member of minority community and will restrict me to take shelter under Court of law.

For this act of your kind and natural justice, I as an humble prayer, shall ever duty bound to the department & oblige.

Thanking you.

Yours faithfully,
Sd/- 20.12.99
(A.H. LASKAR)
Jr. Telecom Officer Cable
O/o S.D.O. Phones Kalapahar
Guwahati - 781 018.

-24

35

ANNEXURE - 3 B

To

The Chief General Manager,
Assam Telecom Circle,
Guwahati - 781 007.

(Through Proper Channel)

Sub :- Regularisation of Promotion to T.E.S. Grp-B after
exoneration in disciplinary Proceedings.

Sir,

I beg to lay before you the following few lines
for your kind and sympathetic consideration.

That Sir, I have been promoted to TES Grp 'B'
vide DOT's order No. 2-7/98-STG-II dtd. 21.10.98 where my
name is included in Sl. No. 1312 with staff No. 35085. But
my promotion was held up because of disciplinary proceeding
initiated against me. Now I am exonerated from the charges
levelled against me by the Disciplinary Authority vide its
letter No. GM/GH/X-61/Dispur/97-98 dtd. 29/4/99.

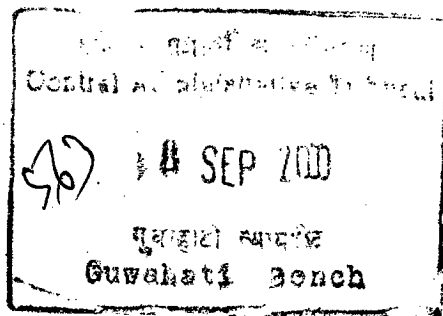
In view of the above I most earnestly request
you to issue my promotion order at an early date so that
I may be releaved from further mental agony.

✓
Yours faithfully,

Sd/- 23/6/99.

(A.H. Laskar)
JTO, Cable
O/O S.D.O. Phones, Kalapahar.

Dated Guwahati
The 23rd June/99.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Filed by

4/9/2000
(A. DEBROY)

Sr. C. G. S. C.

C. A. T., Guwahati Bench

O.A. No. 111/2000

Shri A.H. Laskar,

....Applicant

-VS-

Union Of India & others

.....Respondents

IN THE MATTER OF :

Written Statements submitted by

Respondent No. 1, 2, 3, 4

WRITTEN STATEMENT

The humble respondents beg to
submit their written statement
as follows :

1. That with regard to para 1, 2, and 3 the respondents beg
to offer no comments.
2. That with regard to para 4.1 the respondents beg
to state that the respondents do not wish to make any
comments as the same is a matter of records. Moreover,
the academic career of the applicant doesnot have any
bearing on the present case.
3. That with regard to para 4.2, 4.3 and 4.4, the
respondents beg to state that the respondent's depart-

ment afforded all permissible opportunity to the applicant to advance his career and never stood on the way his due promotion.

4. That with regard to para 4.5, the respondents beg to state that in the exigence of service, officiating arrangement was restored to at the circle level in the cadre of SDE. In the process, some JTO including the applicant were promoted on local adhoc officiating basis to perform the current duties of SDE against prevailing vacancies. This was purely adhoc arrangement. While the applicant was officiating as SDE, he was charge-sheeted by the Competent Disciplinary authority on 24.3.98 and an Enquiry Committee was formed to look into the charges. Subsequent to the issuance of charge sheet as above, the applicant was reverted to his substantive grade of JTO by an order of the competent authority. The reversion is in conformity with the Govt. of India's instructions on the subject to the effect that a charge-sheeted Govt. servant should not be given promotion during the pendency of the disciplinary case and that if the Govt. servant have been officiating in a higher post on adhoc basis he should be reverted to the original cadre. The reversion of the applicant was mandatory under the provision of the CCS(CCA) Rules and can not be called arbitrary or

38 27

-3-

colourful exercise of power.

5. That with regard to para 4.6, the respondent beg to state that the applicant was prima-facie found to be quality of grave misconduct and accordingly the competent disciplinary authority initiated disciplinary proceedings against the applicant by issuance of a charge-sheet on 24.3.1998. At the time of making local officiating arrangement in the cadre of SDE, the applicant was not considered fit for such officiating promotion as a disciplinary cases was pending against him and the charges were under formal enquiry under Rule 14 of CCS(CCA), Rules.

6. That with regard to para 4.7, the respondents beg to state that the promotion case of the applicant and other JTO was processed in due course of time and in due manner and ultimately his order of promotion was issued by the TCHQ vide their memo No. 2-7/93-STG .III dated 21.10.98. The promotion of the applicant was subject to the condition as specifically laid down in Para 1 of the promotion order. Accordingly to the expressed condition, if any disciplinary proceeding is pending against any Govt. servant under/order of promotion or if any punishment is current then the promotion should not be given effect to. The above subjective provision is in accordance with para 7 of the Govt. of India's guide lines issued under O.M. No. 22011/4/91-Estt(A) dated. 14.9.92. The above noted instruction/guidelines were issued in pursuance to the judgment delivered by the Hon'ble Supreme Court

....4/-

39/28

-4-

in U.O.I. vs K.V. Janakiram's case. Since the applicant had been charge-sheeted before the promotion order was given effect to the provision of para 7 of the O.M. dt. 14.9.92 was attracted and ^{promotion}~~promotion~~ was not given.

7. That with regard to para 4.8, the respondent beg to state that the disciplinary proceedings against the applicant were drawn on the written advice of the Central Vigilance Commission. The Central Vigilance Commission also advised the initiation of major penalty proceedings against Shri D.N. Bhaisya, SDE and Shri N.C. Sutradhar, SDE as all the three Govt. servants ^{same} are prima-facie found to be involved in the/case. The Central Vigilance Commission also advised the department to seek second stage advice in due course. According to the procedure laid down by the Central Vigilance Commission, the records of the inquiry are to be submitted to Central Vigilance Commission through the Telecom. Commission for their second stage advice before issuance of final order of the Disciplinary Authority. Be it made clear that in all disciplinary cases which was initiated on the advice of Central Vigilance Commission, it is mandatory for the Disciplinary Authority to refer the case to Central Vigilance Commission after completion of enquiry for second stage advice before issuance of final order. In the instant case, the Disciplinary Authority, out of his ignorance of the procedure, passed the final order without obtaining the second stage advice of the Central Vigilance Commission. Hence the final order dated 29.4.99 passed by the Disciplinary Authority is not valid and can not be relied upon.

The Central Vigilance Commission's note dtd 29-10-97 and Dept. of Telecom/ND's letters dtd 18-06-99 and 5-8-99 are marked as Annexures R₁, R₂ and R₃ respectively.5/-

40 29

8. That with regard to the para 4.9, the respondent beg to state that the order of the Disciplinary Authority exonerating the applicant from the charges is invalid as it was issued without obtaining the advice of the Central Vigilance Commission. The disciplinary case can not, therefore, be taken as concluded. The Head of the Circle on whom the responsibility of implementation of the promotion order dated 21.10.98 rests can not act merely relying on the Disciplinary Authority's order dated 29.4.99 as it was supported by the second stage advice of the Central Vigilance Commission.

9. That with regard to para 4.10, the respondent beg to state that the disciplinary case against the applicant was proceeded by preliminary enquiry which prima-facie revealed that the applicant is guilty of grave misconduct. The Central Vigilance Commission also examined the case and found it fit for formal proceedings and accordingly advised the department to initiate major penalty proceedings against the applicant and two other SDEs involved in the same case. While tendering their 1st stage advice the Central Vigilance Commission also instructed the respondent Department to seek 2nd stage advice before issuance of final order. The advice of the Central Vigilance Commissioner is an essential part of the disciplinary case with out which the case can not

come to an end. The inadvertant omission on the part of Disciplinary Authority can not dispense with the prescribed procedure nor diminish the part of Central Vigilance Commission.

10. That with regard to para 4.11, the respondent beg to state that the disciplinary case is still inconclusive and the Disciplinary Aythrotiy's order dated 29.4.99 can not be treated as final. Promotion of the applicant at this stage is immature. In the face of the above inherent deficiency in the order of the Disciplinary Authority the TCHQ has remanded the disciplinary case to respondent No. 2 for suo-moto revision under Rule 29 of CCS(CCA) Rules. The respondent No. 2 will call for the records from the Disciplinary Authority for an effective revision of the case and pass his order in due course of time. The promotion of the applicant will be decided after the order of revisionary authority.

11. That with regard to para 5, the respondents beg to state that the applicant was prima facie found to have committed serious irregularity and the proceedings against him was drawn on the advice of Central Vigilance Commission for major penalty. The enquiry into the charges has been completed but the follow up action on the Enquiry Report is still incomplete as the 2nd stage opinion of the C.V.C. is not obtained. The order of the Disciplinary Authority is pre-mature and can not

be treated as final outcome of the case. Accordingly, the benefit of para 3 of the O.M. dated 14.9.1992 can not be extended at this stage. The charges against the applicant are so grave that it will be against the public interest to give adhoc promotion to the applicant pending finalisation of the disciplinary case.

VERIFICATION

I, Shri Ganesh Chandra Sarma, Asst. Director (Telecom.)

do hereby verify that the statements made in this written statement are true to my knowledge, belief and information.

And I sign this verification on this the 25th day of August, 2000.


DECLARANT

Asst. Director Telecom (Legal)
O/O the C. G. M. Telecom
Kamren Circle, Gauhati-781007

- 8 -
Annexure - R_y

4/N
CENTRAL VIGILANCE COMMISSION

The case S/Shri D.N. Raichya, SDO and two others referred to by the Department of Telecom for 1st stage advice, has been examined in the Commission.

2. The Commission, in agreement with Department of Telecom, would advise initiation of major penalty proceedings against Shri D.N. Raichya, SDO and Shri A.H. Laskar and N.C. Sutradhar, JTOs.

3. The Commission would also advise the Department to appoint their own I.O and seek 2nd stage advice in due course.

4. Receipt of Department's files with this advice may be acknowledged and action taken intimated

Sr DDO (Vig Telecom)
Dy. No. 2978

Date 5.11.97

Nargall
(Hange Lal) 20031
Under Secretary

Department of Telecom (Shri A.P. Gupta, DDO (Vig), New Delhi)

C.V.C.'s U.O NO. 97/P&T/74

29 OCT 1997

A
6/10/

ADD (nig)

Part 1-2-3-4 Director (VAT)
19.68
Dy No
Date 6/11

S. V. 87

11. PM only
Q. AT 92
6/11/97

-9-
Annexure-R₂

Confidential/Regd.

No.6-3/99-VM.I
Government of India
Ministry of Communications
Department of Telecommunications

West Block # 1, Wing # 2
R.K Puram, New Delhi-66.

Dated June 18, 1999.

To,

All Heads of Telecom. Circles/Projects/Maintenance Circles/
Telephone Districts,
CGM, MTNL, Delhi/Mumbai.

(By name) Sh J. Ramaniyam
CGM

Sub: Feedback in respect of disciplinary proceedings initiated against Gr.
'B' officers.

Sir,

I am directed to say that as per the existing procedure, RDA orders are issued by this office, in consultation with CVC, for initiating major/minor penalty action against Gr.B officers. Copies of such orders are endorsed to Vig.II Section of the office. After issue of RDA orders by the Directorate for initiating disciplinary proceedings against Gr. 'B' officers, further action is taken by the Head of the Circle. Action taken by the circle in such case is not intimated to this office at regular intervals with the result that this office files are kept pending indefinitely. Apart from this, difficulty is also envisaged in issuing vigilance clearance for such officers for want of requisite information. Accordingly, it has been decided to streamline the procedure and issue consolidated instructions in this regard as under :

- (i) When the circle receives RDA orders for initiating major/minor penalty action against Gr. 'B' officers or major penalty cases where NGOs alongwith Gr. 'B' officers are involved, a copy of chargesheet in respect of Gr. 'B' officers involved should invariably be sent to this office giving reference of the RDA order. The concerned section in Vigilance Branch of DOT (HQ) will make necessary entries in their records regarding issue of chargesheet and forward a copy of the chargesheet to DO.II of Vig.II Section for the purpose of withholding vigilance clearance and preparation of relevant Proforma.
- (ii)(a) Where major penalty proceedings are conducted by appointing a Departmental Inquiry Officer, on conclusion of the inquiry, the entire case alongwith I.O.s report and records, in original should be sent to Vig.II Section of this office in respect of Gr. B officers for soliciting 2nd stage advice of CVC and for further

PA

Conf
18/6/99
18/6/99
18/6/99

Cont. 2/-

action thereafter. After finalisation of the case, DO.II will intimate CVC on the final action taken.

- (b) In respect of NGOs, the I.O's reports alongwith records should be sent to the section which has issued RDA orders for taking up the case with CVC for 2nd stage advice.
- (iii) In minor penalty cases, where final orders are issued by the Competent Authority in consonance with CVC advice, a copy of the final order should be endorsed to this office quoting reference of RDA order. The concerned section will make an entry in their records and send reply to CVC for closure of the case, under intimation to Vigilance.II Section.
- (iv) In minor penalty cases, where disciplinary authority disagrees with the advice of CVC i.e. it does not intend to impose a minor penalty, before passing final orders in the disciplinary case, the entire case should be sent to Vig.II Section for referring to CVC for advice.
- (v) Where Circle initiates minor penalty action on its own against a Gr. 'B' official, in that case also, a copy of the charge memo as well as copy of the final order should be sent to Desk Officer (Vig.II) of the Directorate. Such initiation of action on its own by the circle can only be in regard to cases where no vigilance angle is involved and consultation with the CVC is not required.
2. It is further clarified that in all cases of complaints against gazetted officers having vigilance angle, consultation with the CVC is essential and action has to be in consonance with its advice. If it is proposed to differ with the CVC advice, the case has to be referred to them for reconsideration of their advice and for final disagreement with the CVC, concurrence of the Department of Personal and Training is required.

2. Receipt of this letter may please be acknowledged.

Yours faithfully

ABHAI KUMAR
(ABHAI KUMAR)

Director General (VM.I)

Copy to :

1. All officers/sections of vigilance : p.
2. Guard file.

Annexure-R₃

Confidential/Registered

34
(6)
16

No. 6-4/96-VM.I
Government of India
Ministry of Communications
Department of Telecommunications

West Block, # 1, Wing # 2,
R.K Puram, New Delhi -66

Dated: 5th August 1999.

To,

All Heads of Telecom. Circle/Project/Mtce. Circles/
TTC Jabalpur/ALTTC.
CGM, Telecom Factories/Stores.
CGM, MTNL Delhi/Mumbai.

Sub: Consultation with Central Vigilance Commission -- instruction -
regarding.

It has come to the notice of the Directorate that the instructions regarding consultation mechanism with Central Vigilance Commission are not being followed by many field units. Central Vigilance Commission in one case have pointed out that the consultation with the Commission may be strictly adhered to before taking a decision regarding the officers covered under the normal advisory jurisdiction of Central Vigilance Commission i.e. Gr. A & B officers in all disciplinary cases having vigilance angle.

2. It is therefore reiterated that the instructions are complied with invariably and scrupulously and all vigilance cases involving Gr. A&B officers be sent to this office for seeking first stage advice of Central Vigilance Commission. Further, if some NGOs are also involved alongwith GOs in the vigilance case, the composite case is required to be sent to Central Vigilance Commission for advice before initiating action. Any failure in this regard will be viewed seriously.

3. Receipt of this letter may be acknowledged.

V. K. MAHAJAN
5/8/99

(ABHAI KUMAR)
Asstt. Director General (VM.I)

A copy to ADO(Vig.A)/VM.II/VM.III