

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 428 of 2001

Indore, this the 29th day of September, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman
Hon'ble Mr. Madan Mohan, Judicial Member

Narayan Prasad Jatav
S/o Jatav, Senior Section
Supervisor O/o EMP-1185 General
Manager Telecom
Telecom District Jabalpur
At Jabalpur.

APPLICANT

(By Advocate - None)

VERSUS

1. Union of India
Through Secretary
Ministry of Telecom
New Delhi.
2. Bharat Sanchar Nigam Ltd.
Through General Manager
Telecom Jabalpur
Distt. Jabalpur
3. Divisional Engineer
Telecom(Admn)
Jabalpur(M.P.)
4. A.R. Wakil
Chief Section Supervisor
Gr.IV Telecom Distt.
Jabalpur M.P.

RESPONDENTS

(By Advocate - Shri Gopi Chourasia on behalf of
Shri S.A. Dharmadhikari)

ORDER

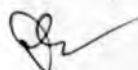
By Madan Mohan, Judicial Member -

By filing this OA, the applicant has sought the following main reliefs :-

"(i) Respondents be directed to consider the case of the applicant for promotion as Chief Sectional Supervisor from the post of Sr. Sectional Supervisor from the year 1995 with all consequential benefits with arrears of the same alongwith interest thereon @ 24 percent p.a.

(ii) to direct the respondents to cancel the promotion of the respondent No.4 with immediate effect as he is much junior to the applicant".

2. The brief facts of the case are that the applicant is posted as Senior Section Supervisor in the office of accounts



Revenue Section of General Manager, Telecom. Jabalpur, Distt. Jabalpur. He got BCR promotion on 30.11.1990 in the pay scale of Rs. 5500-9000/-. The applicant has right to get the next promotion as Chief Sectional Supervisor and his promotion is due right from the year 1995. The promotion of the applicant was to be made under 10% posts in the BCR scheme. The respondents has not conducted the DPC since 1995 to 1999, therefore, the promotion of the applicant could not be considered and at that time he was on top of the BCR seniority list. The gradation list was published vide memo dated 7.7.2000, wherein it was directed to the employees to submit the representations if any, against the publication of the said list, within a month from the date of publication. The applicant has no grievance of any kind against the publication. Hence, he did not submit the representation. On 29.12.2000 the DPC was called and the said DPC considered the promotions to the post of Chief Sectional Supervisor amongst the BCR officers under the 10% BCR Grade-IV in the pay scale of Rs. 6500-10500/- with effect from their assumption of duty. The list of promotees^{was} published on 17.1.2001 and on 13.2.2001 by the Divisional Engineer (Admn.) Jabalpur and Controller of Stores, Telecom, Jabalpur, respectively. But the name of the applicant who was entitled just after the promotion of Shri K.S. Vikey was not placed therein whereas the name of respondent No. 5 Shri A.R. Vakir appears at Sr. No. 2 in the second promotee list dated 13.2.2001 who is junior to the applicant as per the gradation list position as on 1.4.2000 published on 7.7.2000, wherein the name of the applicant appears at Sr. No. 2 and the name of the respondent No. 4 appears at No. 4A of the BCR Officers. The applicant preferred representation against the non-consideration of his name for the promotion of Chief Sectional Supervisor under BCR in the pay scale of Rs. 6500-10500/- and another representation




against the consideration of the name of the respondent No. 4 for the promotion as Chief Section Supervisor who is junior to the applicant. In reply by the respondents to the applicant it was pointed out that as per departmental rules and for want of vacancies, the serial No. of the applicant does not come within the promotional cycle. The applicant approached his Union in respect of his grievance and settlement of his claim and then the Union wrote a letter to the respondents, but the case of the applicant was not considered by the respondents. Hence, this Original Application.

3. None is present for the applicant. Since it is an old case of 2001, we proceed to dispose of this Original Application by invoking the provisions of Rule 15 of CAT (Procedure) Rules, 1987. Heard the learned counsel for the respondents and perused the records and pleadings carefully.

4. The learned counsel for the respondents has admitted that the issue involved in the present case is the same as involved in OAs Nos. 454/2000 & 829/2000. He, however, contended that he is not sure whether the aforesaid OAs have been decided by the Tribunal. In case these OAs have been decided by the Tribunal, the present case is also covered by the decision of these OAs. We have called the records of the aforesaid OAs and we find that the aforesaid OAs have ^{already} been decided by the Tribunal vide order dated 5th August, 2002 in the following terms :

"5. We have heard learned advocates of both the parties in both the OA's and have gone through the record. The order dated 30.12.1999 (Annexure A-1) which was challenged before the Principal Bench in OA No. 425/2000, which rejected the impugned order and thereafter the matter went up to the Hon'ble Supreme Court which dismissed the SLP. Shri S.A.



Dhamadhikari appearing on behalf of the respondents also does not dispute this factual position asserted by the applicants' lawyer. In this view of the matter, we find and hold that decision of the Principal Bench in OA No. 425/2000, which was even confirmed by the Hon'ble Supreme Court, mutatis mutandis apply in both these cases."

In OA No. 425/2000 the following observations were made :

"5.3
We also find that no show cause notice was issued before reverting the applicants from the grade which they were holding for the last about 10 years.

5.4 It is also seen that BCR promotions were given to those who had completed 26 years service in basis grade as on 1.1.90. These persons have completed 36 years of service. Obviously, some of these would have retired or would be retiring within a few years, thus, creating the vacancies in the Grade-IV. It is also seen that most of the applicants have a few years for superannuation. In additions, additional vacancies would have arisen or shall arise due to retirement/promotion of other Grade-IV employees. Therefore, additional financial burden, if any would be limited, to a few years only.

6.0 In view of the above discussions, we are of the view that the action of the respondents in reverting the applicants by the impugned orders dated 12.2.2000, is not in order. Accordingly, the impugned orders dated 30.12.1999 and dated 12.2.2000 are hereby quashed. The order of the respondents dated 13.12.1997 shall continue to be operative.

7.0 The OA is accordingly allowed with the above directions. No order as to costs."


As the learned counsel for the respondents himself has stated that the present OA is fully covered by the decision of the Tribunal in the aforesaid cases i.e. OAs Nos. 454/2000 & 829/2000 and also OA No. 425/2000, we are of the considered view that this OA can also be decided in the same terms.

5. In the result, the Original Application is disposed of with a direction that the decision of the Principal Bench of the Tribunal in the case of Dev Raj & Others Vs. Union of India & Others, decided on 2.6.2000 in OA No. 425/2000, shall be mutatis-mutandis applicable in the present case. There shall be

no order as to costs.



(Madan Mohan)
Judicial Member

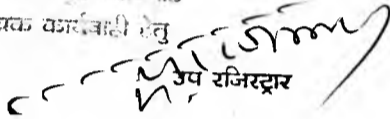


(M.P. Singh)
Vice Chairman

पूठावका सं ओ/ज्या.....जबलपुर, दि.....

"SA" पतिलियि काये रिक्त -

- (1) रसिब, उका ज्वायना नर ज्वायना, जबलपुर
- (2) आयेरक श्री/श्रीमती/पु के काउंसल } Shri V.P Nema H.C.J.B.P
- (3) प्रपती श्री/श्रीमती/पु के काउंसल } Shri Om Nadeo H.C.J.B.P
- (4) अंययन संयुक्त संयुक्त एवं आवश्यक कारवाही हेतु


उपे रजिस्ट्रार

Issued
On 4-10-09
BS