

29/02/2012

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O.A. No. 176/2008

Mr. Punit Singhvi, Deputy Counsel for  
Mr. R.N. Mathur, Counsel for applicant.  
Mr. T.P. Sharma, Counsel for respondent No. 2.  
None present for other respondents.

Heard.

O.A. is disposed of by a separate  
order on the separate sheets for the  
reasons recorded therein.

Anil Kumar  
[Anil Kumar]  
Member (A)

[L.S. Rathore]  
(Justice K.S. Rathore)  
Member (J)

Recd. following documents:-

- 1) Original Act & Dossier
- 2) DR minutes 7/3/2002
- 3) order dated 13/3/2002
- 4) \_\_\_\_\_

*[Signature]*  
B. Khareek  
6/3/15  
Advocate

*[Signature]*  
for Mr. T.P. Sharma  
(Advocate)

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO. 176/2008

**DATE OF ORDER:** 29.02.2012

**CORAM**

**HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER  
HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER**

Vijay Kumar Sajnani S/o Shri Alam Chand Sajnani, aged around 50 years, R/o Type V/40, Telecom Colony Bajaj Nagar, Jaipur (Rajasthan). PIN 302015. Presently posted as Director Vigilance & Telecom Monitoring, Jaipur, Department of Telecommunications, Ministry of Communication & Information Technology, Government of India.

...Applicant

Mr. Punit Singhvi, proxy counsel for  
Mr. R.N. Mathur, counsel for applicant.

**VERSUS**

1. Union of India, through Secretary, Department of Telecommunication, Ministry of Communication & Information Technology, Government of India, New Delhi – 110001.
2. Director (Staff), Department of Telecommunication, Ministry of Communication & Information Technology, Government of India, New Delhi – 110001.
3. Union Public Service Commission, Dholpur House, New Delhi.

...Respondents

Mr. T.P. Sharma, counsel for respondent no. 2.  
None present for other respondents.

**ORDER (ORAL)**

Short controversy is involved in this Original Application as the respondents have issued the order of promotion dated 28.12.2007 (Annex. A/1) ignoring the name of the applicant for promotion to the post of Senior Administrative Grade of Indian Telecommunications Services Group 'A'.



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2. Learned counsel appearing for the applicant is able to make out the case that the applicant has been rated 'very good' in his APARs (Annual Performance Appraisal Report) from 2000-01 to 2005-06 and has also been rated as 'outstanding' for the year 2006-07 and in view of this, the applicant is entitled to be considered for promotion on the post of Senior Administrative Grade of Indian Telecommunications Services Group 'A'. Further as evident by the promotion order dated 28.12.2007 (Annex. A/1), junior person namely Shri Ashok K. Tewari has been promoted to the post of Senior Administrative Grade of Indian Telecommunications Services Group 'A'.

3. So far as the APARs are concerned, it is no doubt that the applicant is eligible and entitled for promotion on the aforesaid post as the applicant is able to demonstrate before this Tribunal that junior person than the applicant, namely Shri Ashok K. Tewari has been promoted. It is submitted by the learned counsel for the applicant that the disciplinary proceedings under Rule 14 of the CCS (CCA) Rules, 1965 vide Memorandum No. 8/78/98-Vig. II, dated 31.08.1999 was initiated against Shri Ashok K. Tiwari, and vide order No. 8/78/98-Vig.II, dated 12<sup>th</sup> February, 2002 issued by the Govt. of India, Ministry of Communications, Department of Telecommunications, New Delhi, a penalty of reduction by one stage from Rs. 15,900 to Rs. 15,500 in the time scale of pay of Rs. 14,300-400-18,300 for a period of three years with immediate effect was imposed upon Shri Ashok K. Tiwari with further direction that Shri Ashok K. Tiwari will not earn increments of pay during the period of reduction and that, on the expiry of this period, the reduction will have the effect of

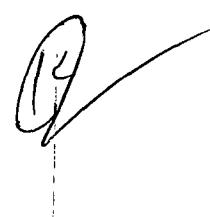
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postponing his future increments of pay, but ignoring this penalty, Shri Ashok K. Tiwari has been given promotion, whereas in the case of the applicant, the disciplinary proceedings under Rule 14 of the CCS (CCA) Rules, 1965, vide Memorandum No. 8/69/99-Vig. II dated 10.11.1999 was initiated, and vide order No. 8/69/99-Vig. II dated 7<sup>th</sup> March, 2002 passed by the Govt. of India, Ministry of Communications, Department of Telecommunications, New Delhi, only a penalty of withholding the next increment due to the applicant for a period of two years with cumulative effect was imposed, and the applicant has been denied promotion on that count.

4. We have also perused the original APARs. From the perusal of the original APARs, it is evident that the applicant has been through out rated 'very good'.

5. Having considered the merit of the case, since the applicant is able to make out the case that the hostile discriminatory attitude has been adopted by the respondents while considering applicant for promotion qua with Shri Ashok K. Tiwari, thus, we are of the view that ends of justice would be met if we direct the respondents to conduct the review DPC and consider the APARs of the applicant, which are 'very good' and the penalty awarded in the case of the applicant at par with the case of Shri Ashok K. Tiwari, who is admittedly junior to the applicant and has been granted the promotion, and if he is otherwise found suitable, he may be given the promotion with effect from 28<sup>th</sup> December, 2007 i.e. the date upon which Shri Ashok K. Tiwari, junior than the applicant has been given promotion on the post of Senior



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Administrative Grade of Indian Telecommunications Services  
Group 'A'.

6. Consequently, Original Application stands allowed and the respondents are directed to conduct the review DPC and consider the APARs of the applicant, which are 'very good' and the penalty awarded in the case of the applicant at par with the case of Shri Ashok K. Tiwari, who is admittedly junior to the applicant and has been granted the promotion, and if the applicant is otherwise found suitable, he may be given the promotion with effect from 28<sup>th</sup> December, 2007 i.e. the date upon which Shri Ashok K. Tiwari, junior than the applicant has been given promotion on the post of Senior Administrative Grade of Indian Telecommunications Services Group 'A'. We further direct that the respondents shall undertake this exercise expeditiously but in any case not beyond the period of six months from the date of receipt of a copy this order.

7. With these observations and directions, the Original Application stands disposed of with no order as to costs.

*Anil Kumar*  
(ANIL KUMAR)  
MEMBER (A)

*K. S. Rathore*  
(JUSTICE K.S. RATHORE)  
MEMBER (J)

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