

(13)

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

21.05.2012

OA No. 116/2010

Mr. Suresh Pareek, Counsel for applicant.
Mr. Neeraj Batra, Counsel for respondents.

List it on 13.07.2012.

Anil Kumar
(Anil Kumar)

Member (A)

ahq

K. S. Rathore
(Justice K.S.Rathore)
Member (J)

13/07/2012

OA No. 116/2010

MR. Shankar Lal Sharma, Poony Counsel to
MR. Suresh Pareek, Counsel for applicant
MR. Neeraj Batra, Counsel for respondent

Heard.

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

Anil Kumar
[Anil Kumar]
Member (A)

K. S. Rathore
(Justice K.S.Rathore)
Member (J)

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO. 116/2010

DATE OF ORDER: 13.07.2012

CORAM

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

Madan Lal Sharma, aged about 65 years, S/o Shri R.K. Sharma, R/o B-23, Satya Nagar, Khatipura Road, Jhotwara, Jaipur. Retd. T.S. O/o B.S.N.L. Rajasthan Telecom Circle, M.I. Road, Jaipur.

...Applicant

Mr. Shankar Lal Sharma, proxy counsel for Mr. Suresh Pareek, counsel for applicant.

VERSUS

1. Bharat Sanchar Nigam Limited through its Managing Director, Barakhambha Road, New Delhi.
2. Chief General Manager, Bharat Sanchar Nigam Limited, Rajasthan Telecom Circle, M.I. Road, Jaipur.
3. Principal General Manager Telecom District, Jaipur Bharat Sanchar Nigam Limited, M.I. Road, Jaipur.

...Respondents

Mr. Neeraj Batra, counsel for respondents.

ORDER (ORAL)

The controversy involved in the present Original Application is that the respondents have not granted the benefit of One Time Bound Promotion (OTBP) after completion of more than 18 years of service since 1985, whereas the benefit of this scheme has been allowed to the applicant with effect from 29.01.1999, and thereafter the respondents have not granted the benefit of BCR after completion of 26 years of service.



Therefore, the applicant has filed the present Original Application praying that the respondents may be directed to grant the benefit of OTBP Scheme from 1985 and thereafter the benefit of BCR Scheme from 1991, and thereafter the benefit of BCR Grade IVth (equivalent to the pay scale of Chief Telecom Supervisor) from 1995 with all consequential benefits.

2. Earlier, the applicant had filed an O.A. No. 211/1994 before this Bench of the Tribunal, and this Bench vide its order dated 11.05.2000 partly allowed the O.A. and directed the respondents to consider the candidature of the applicant with effect from the year 1985 for one time bound promotion scheme and selection grade. The Bench further directed that the period with effect from 09.07.1987 to 22.05.1993 should be regularized by sanctioning any kind of leave due to the applicant in case the applicant submits application / representation for the same within a period of one month from the date of passing of the order.

3. Further, the applicant had filed D.B. Civil Writ Petition No. 3175/2000 before the Hon'ble Rajasthan High Court, Jaipur Bench against the order dated 11.05.2000 passed by this Bench of the Tribunal in OA No. 211/1994 by which the OA was partly allowed. The Division Bench of the Rajasthan High Court, Jaipur Bench had observed that his claim for consideration of his candidature with effect from the year 1985 for one time bound promotion scheme and selection grade was accepted.



4. The applicant had filed a D.B. Civil Special Appeal (Writ) No. 1263/2007 against the judgment dated 09th July, 2007 passed in S.B. Civil Writ Petition No. 8399/2006 whereby writ petition has been dismissed by the Single Bench. The D.B. Civil Special Appeal (Writ) No. 1263/2007 has been dismissed vide order dated 05.11.2008 wherein the Hon'ble Division Bench of the High Court has observed that retrial dues admissible have already been paid, and liberty was given to the appellant to make representation with the respondent-authorities for the left over grievances, if any. The representation, if any, filed by the appellant shall be considered and disposed of by a speaking order by the respondent-authorities in regard to all the grievances within a period of six months from the date of filing of the same.

5. Pursuant to the direction issued by the Hon'ble Division Bench of the High Court, the applicant filed representation dated 10.02.2009 (Annex. A/2), and the same has been decided by the respondent-authorities vide order dated 06.08.2009 (Annex. A/3) rejecting the representation filed by the applicant.

6. We have perused the order dated 06.08.2009 (Annexure A/3) wherein the findings of various Departmental Promotion Committees (DPCs) are given. In the DPC met on 27.03.1984, the applicant was found 'unfit'. Thereafter, in the DPC met on 25.09.1984, the applicant was found 'unfit', and in the DPC met on 19.12.1985, the case of the applicant was not considered by



the DPC as the CRs of the applicant were not made available to the DPC by the respondent-authority.

7. We have given our thoughtful consideration to the rival submissions made on behalf of the respective parties and upon careful perusal of the order dated 06.08.2009 (Annexure A/3) passed by the respondents, while deciding the representation dated 10.02.2009 (Annexure A/2), it is evident that the case of the applicant was not considered by the DPC met on 19.12.1985 due to non-availability of CRs, and in our considered view it was not the fault of the applicant, and whenever the CRs are made available, the respondents have to consider the case of the applicant.

8. We have not convinced with the submissions made on behalf of the respondents that the criminal case is pending against the applicant. Admittedly, the criminal case was registered against the applicant in the year 1993 under Section 467, 468 and 471 of IPC before the Police Station, Ramganj, Jaipur i.e. after 19.12.1985, the date upon which the DPC was met and the case of the applicant was not considered for non-availability of the CRs.

9. In view of this fact, we deem it proper to direct the respondents to hold review DPC for the year 1985 and provide the CRs of the applicant to the review DPC for considering his case, and grant the benefit of OTBP scheme from 1985, if he is



otherwise found suitable, and also grant the consequential benefits of the BCR Scheme. It is further directed that the aforesaid exercise be undertaken by the respondents within a period of three months from the date of receipt of a copy of this order.

10. With the above observations and directions, the present 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)

kumawat