

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.**

OA No.456/2018 with MA No.367/2018

This the 26th day of September, 2018

**Coram : Hon'ble Ms. Archana Nigam, Administrative Member
Hon'ble Shri M.C.Verma, Judicial Member**

Shri Navnitkumar
S/o. Keshubhai Dudhreja
Aged about 48 years
Occupation : Service
Address : Bhagyalaxmi Appartment
Anupam Society, Nr. Milan Park,
Morbi-2. Applicant
(By Advocate : Ms. K.L.Kalwani)

VERSUS

1. Bharat Sanchar Nigam Ltd.
Through Office of General Manager (Personnel)
4th Floor, Bharat Sanchar Bhavan
H.C.Mathur Lane, Janpath,
New Delhi 110 001.
2. Chief General Manager Telecom
Gujarat Telecom Circle
Telecom Bhavan, Navrangpura
Ahmedabad-6. Respondents.

ORDER – ORAL

Per : Hon’ble Shri M.C.Verma, Member (J)

Instant OA has been preferred on 14.8.2018. The case of the applicant, as has been set out in OA is that applicant is a direct recruited and on 04.10.1999 was appointed as Junior Telecom Officer, became eligible for promotion from the post of Junior Telecom Officer to the post of SDE(T). That office of respondent issued list of eligible candidates on 04.03.2008 (11.3.2008) and in the eligibility list published his name was at Sr. No.147 in said eligibility list. That on 11.3.2008, list of promotee candidates, promoted from the eligibility list, was published wherein name of applicant was not there. That applicant made representation, on 28.05.2009 (Annexure A-6) and several reminders thereafter have been made and hence, is the OA.. MA No.367/2018, for condonation of delay has also been preferred with the OA

2. The matter is at initial stage. Learned counsel Ms. K.L.Kalwani while pressing for issuance of notice and arguing on point of limitation submits that the applicant came to know

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about the result of promotion but he was not knowing as to why he was not given promotion and his representation was not decided. That the applicant, through application preferred under RIT came to know about reasons for his non-promotion only in 2018 and therefore, the delay needs to be condoned. Learned counsel also has urged that the applicant was pressing his case continuously, she placed reliance on the decision dated 21.8.1995 of Hon'ble Supreme Court in case of ***M.R.Gupta v/s. Union of India, 1995 (5) SCC 628***, particularly on Para-5 and submits that cause of action is of continuous nature and therefore also case of the applicant cannot be said barred by limitation.

3. Considered the submission. The factual situation as has been pleaded reflects that the list of promotee candidates, promoted from the eligibility list, was published on 11/3/08. Result appears to have been duly published and being aggrieved by the facts that name of him was not found figured in the list applicant gave representation in year 2009. It can be said in-hesitantly that applicant was well aware, if not in March 2008 then at least in the year 2009 that he is not amongst the persons who have been promoted. Even if we assume that outcome of his representation was not informed to him, in that situation also

right to challenge accrued to him on expiry of six months of giving representation and it continued thereafter for one year. Applicant did not opt to agitate the matter at that time and pleadings reflects that after giving representation in year 2009 applicant remained sited till 2017 when he made an application under RTI and he was informed about his ACR etc. of the relevant periods. Annexures to the pleadings are the ACR of the relevant periods, which shows that ACR was not up to the mark.

4. Decision of Hon'ble Supreme Court in case of ***M.R.Gupta v/s. Union of India, 1995(5) SCC 628***, upon which reliance has been placed by applicant's counsel relates to MACP and *ratio decendi* of said decision can't be applied to the facts and circumstances of case in hand. The delay is of about 8-9 years. No cogent and plausible reasons have been mentioned in MA No. 367/2018 for condonation of such long delay nor any could be put forward during hearing also. Hence, MA for condonation of delay thus deserves dismissal. It is also worth mentioning also that applicant has since been promoted to the post of Sub-Divisional Engineer (T) and thereafter, this OA was filed.

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5. In view of aforesaid factual and legal scenario MA No. 367/2018 is dismissed and accordingly the OA being not maintainable, as is suffering from delay and laches also deserve dismissal and is dismissed

(M.C.Verma)
Member (J)

(Archana Nigam)
Member (A)

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