

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00697/18

Date of Order: 24/08/2018

C O R A M
HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER

Birendra Kumar (Staff No. 96551), Son of Sri Bijay Kishore, Director (Electrical), Department of Telecommunications, Office of the Senior Deputy Director General, Bihar Licensed Service Area, 3rd Floor, Telephone Bhawan, Patna- 800001 (Bihar).

..... Applicant.

- By Advocate: - Mr. M.P. Dixit

-Versus-

1. The Union of India through the Secretary, Ministry of Communication, Department of Telecommunications, Government of India, Room No. 210, Sanchar Bhawan, 20, Ashoka Road, New Delhi-110001.
2. The Director General, Ministry of Communication, Department of Telecommunications, Government of India, Sanchar Bhawan, 20, Ashoka Road, New Delhi- 110001.
3. The Senior Dy. Director General (BW), Ministry of Communication, Department of Telecommunications, Government of India, Sanchar Bhawan, 20, Ashoka Road, New Delhi-110001.
4. The Director (Electrical), Ministry of Communication, Department of Telecommunications, Government of India, MTNL Building, Minto Road, New Delhi-110001.
5. The Senior Deputy Director General, Bihar Licenses Service Area, 3rd Floor, Telephone Bhawan, Patna- 800001 (Bihar).

..... Respondents.

- By Advocate: - Mr. H.P. Singh, Id. Sr. SC

ORDER
[ORAL]

J.V. Bhairavia, J.M.:- In the instant OA the learned counsel Shri M.P. Dixit mainly contended that appropriate direction upon the respondents is required to be issued to grant promotion to the

applicant in Junior Administrative Grade (JAG) of P&T Building Works Service 'A' on regular basis against the vacant 9th post as the applicant has been placed at sl. No. 9 in the seniority list at par with similarly situated other eight senior persons.

2. It is further submitted that the applicant along with his senior officials had filed OA 1870 of 2012 before Hon'ble Principal Bench of CAT for the relief to consider them for promotion on regular basis instead of keeping them ad-hoc though they have completed the requisite eligibility period and the vacancies were also available in the department. The said OA was finally adjudicated and vide order dated 20.07.2015 (Annexure A/4 refers) the Hon'ble CAT, Principal Bench while taking note of additional affidavit dated 20.02.2014 filed by the respondents and contended that the case of the applicant for regular promotion would be taken up with UPSC after identification and finalization of the regular vacancies of Electrical Wing officers in JAG, directions were issued to the respondents to consider the claim of the applicants for giving regular promotion expeditiously, preferably within a period of four months from the date of production of the certified copy of the order.

3. It is further submitted that subsequently the respondents had issued office order dated 15.12.2016 whereby total 8 officers of STS of P&T BWS, Group A on regular basis in the JAG in the pay level 13 of 7th CPC pay scale w.e.f. date of assumption of charge in higher post in the department (Annexure A/5). In the said

promotion order 6 applicants of OA 1870 of 2012 and two persons who were on deputation had been considered for regular promotion, whereas the name of the applicant did not find place in the said promotion order.

4. The learned counsel further submitted that the 9th post in the said promotion cadre is required to be filled up by the candidate placed at sl. No. 9 in the seniority list, i.e. applicant. Since his name was not placed in the promotion order dated 15.12.2016 the applicant had submitted representation dated 11.01.2017 followed by reminder dated 25.05.2017, 17.07.2017 and 12.10.2017, but neither any reply has been given nor any reason has been communicated to the applicant (Annexure A/6 series refers). The applicant has submitted an application under the RTI to receive the information under which circumstances and for what reason the case of the applicant was not considered for his promotion. However, the respondents have not supplied any information under the provisions of RTI as it was not permissible under the RTI. Therefore, he filed the present OA.

5. On behalf of the respondents, learned Sr. Standing Counsel Shri H.P. Singh appears on receipt of advance copy of the OA. He submitted that the representation of the applicant is not finally considered and is pending and at present no decision with respect to consideration of the claim of promotion of the applicant is available in this OA.

6. The learned counsel for the applicant further submits that the applicant will be satisfied if appropriate direction be issued to the respondents to consider his representation with respect to grant of promotion as per his seniority in the cadre.

7. Considering the submissions and perusing the materials on record, it appears that the applicant is presently working as Director (Electrical) (Junior Administrative Grade- Ad-hoc), Department of Telecommunication, Office of the Senior Dy. Director General, Patna, Bihar since 2010. It is noticed that total 8 seniors to the applicant have been promoted against the total nine vacancies and the applicant who is placed at sl. No. 9 in the seniority list is entitled to be considered for promotion and for which his representations are pending before the authorities.

8. Under the circumstances, the submission of the applicant with respect to issuance of appropriate direction is accepted. Accordingly, the respondents are directed to consider the representations of the applicant in the light of the order passed by the Hon'ble Principal Bench of CAT in OA 1870 of 2012 dated 20.07.2015 as also the seniority of the applicant in accordance with rules and pass a reasoned and speaking order within a period of three months of receipt of this order. The OA is disposed of at the admission stage itself. No order as to costs.

[Jayesh V. Bhairavia]
Judicial Member

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