

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00542/2011

Jabalpur, this Thursday, the 07th day of March, 2019

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Om Prakash Kanojia
Aged about 56 years
S/oKanojia
Telecom Mechanic
R/o 471 Gorakhpur Pansari Mohalla
Jabalpur M.P. PIN 482001

-Applicant

(By Advocate –**Shri V.K. Tiwari**)

V e r s u s

1. Union of India,
Through Secretary
Ministry of Communication Sanchar Bhawan,
New Delhi 110001

2. Bharat Sanchar Nigam Ltd.
O/o Chief General Manager
Telecom M.P. Telecom
Circle Hoshangabad Road
Bhopal M.P.

3. General Manager
Bharat Sanchar Nigam Ltd.
Jabalpur M.P. 482001
Near High Court

4. The Telecom District Engineer
Balaghat M.P. 481001
Sarswati Nagar Balaghat

- Respondents

(By Advocate –**Shri A.P. Khare**)
(Date of reserving the order: 26.02.2019)

ORDER**By Navin Tandon, AM:-**

The applicant is aggrieved that his promotion was not done at appropriate time.

2. The applicant has made the following submissions:-

2.1 He was appointed as workman in 1974 and thereafter appointed as Cable Splicer in 1981. Thereafter on completion of 16 years of service in 1997 he was given OTBP Grade.

2.2 In the year 2002, he was promoted to the post of Telecom Mechanic.

2.3 The Department of Telecom issued instructions on 16.10.1990 (Annexure A/2) regarding creation of new technical cadres in Group C. Further, on 27.04.1994 (Annexure A/3) directions were issued regarding preparation of eligibility list and select panel for the restructured cadres of Group C.

2.4 He was sent for induction course for Telecom Mechanic (External) w.e.f. 09.08.2002 to 11.10.2002 which he completed successfully. Subsequently vide order dated 17.06.2004 (Annexure A/4) he was promoted as Telecom Mechanic on regular basis.

2.5 He represented on 03.10.2005 regarding his non-promotion to Telecom Mechanic whereas other Cable Splicers (i.e. on similar cadre) were promoted earlier to him. Further representations have also been given in the year 2006 and 2008 Annexure A/6 and Annexure A/7 Colly.

2.6 He sought information under the Right to Information Act. In reply to his RTI application, it has been informed to him that the representations for 2005-2006 have not been received in the office. Further the gradation list have been modified as per his representation dated 24.08.2008 and 21.01.2009.

3. Learned counsel for the applicant prayed for the following reliefs:-

“8(i) To direct the respondents to consider the case of the promotion on the post of Phone Mechanic on the basis of order 1990/1994 and remove all the discrepancies.

8(ii) Further the respondents be directed to pay him arrears of salary with all consequential benefits with interest @ 18% p.a. and

8(iii) Also direct the respondents to fix the proper seniority on giving him proper promotion and

8(iv) And also be pleaded to issue any other order deemed fit and proper in the facts and circumstance of the case.

8(v) Cost of the application be awarded.”

4. The respondents have made following submissions in their reply:-

4.1 The application is barred by limitation and the applicant has not mentioned any specific reasons regarding the delay.

4.2 He joined the service as regular Mazdoor in 1974 having the qualification of metric and in the year 1981 he was promoted as Cable Splicer and after completion of 16 years of service the respondents gave him OTBP in the year 1996 and accordingly to the Circular dated 27.04.1994, “the instructed cadre in Group C was compliance by the department and the applicant was given O.T.B.P. Thus he was not entitled to any other promotions, further the official must submit the option for absorption in restructure cadre. But the official has failed to submit the required option”.

5. Heard learned counsel for both the parties and perused the pleadings and documents attached with the file.

6. The applicant is seeking promotion w.e.f. 1990 to 1994. However, he never represented to the respondent-department till 2005 even though he claims to have submitted several representations. The applicant approached this Tribunal only in the year 2011.

7. It has been held by Hon'ble Apex Court in the matters of *Union of India and others* vs. *Tarsem Singh* (2008) 8 SCC 648 where it has been held that "if the issue relates to payment or refixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied".

8. Hon'ble Supreme Court in the matters of *Union of India* v. *A. Durairaj*, (2010) 14 SCC 389 has held that "it is well settled that anyone who feels aggrieved by non-promotion or non-selection should approach the court/tribunal as early as possible. If a person having a justifiable grievance allows the matter to become stale and approaches the court/tribunal belatedly, grant of any relief on the basis of such belated application would lead to serious administrative complications to the employer and difficulties to the other employees as it will upset the settled position regarding seniority and promotions which has been granted to others over the years. Further, where a claim is raised beyond a decade or two from the date of cause of action, the employer will be at a great disadvantage to effectively contest or counter the claim, as the officers who dealt with the matter and/or the relevant records

relating to the matter may no longer be available. Therefore, even if no period of limitation is prescribed, any belated challenge would be liable to be dismissed on the ground of delay and laches.”

9. In view of the above judgments of Hon’ble Supreme Court as well as settled legal position, this O.A. is dismissed on the grounds of delay and laches.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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