

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH  
CIRCUIT SITTING AT RANCHI  
OA/051/00138/15**

Reserved on: 10.04.2019  
Pronounced on: 11.04.2019

**C O R A M**  
**HON'BLE MR. JAYESH V. BHAIKAVIA, JUDICIAL MEMBER**  
**HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER**

Badal Chandra Mondal, Son of Late Moti Lal Mondal, Accounts Officer (TR),  
Office of the Telecom District Manager, Telecom District, Dumka  
(Jharkhand).

.... Applicant.

By Advocate: - Mr. M.P. Dixit

-Versus-

1. The Chairman and Managing Director, Bharat Sanchar Nigam Limited, Corporate Office, Bharat Sanchar Bhawan, Janpath, New Delhi.
2. The Secretary to the Government of India, Sanchar Bhawan, Ashoka Road, New Delhi.
3. The Executive Director, Finance, Bharat Sanchar Nigam Limited, Corporate Office, Bharat Sanchar Bhawan, Janpath, New Delhi.
4. The Deputy Director General (SR), Department of Telecom, Sanchar Bhawan, New Delhi-110001.
5. The General Manager (SEA), Bharat Sanchar Nigam Limited, Corporate Office, Bharat Sanchar Bhawan, New Delhi-110001.
6. The Assistant General Manager (SEA), Bharat Sanchar Nigam Limited, Corporate Office, Bharat Sanchar Bhawan, New Delhi-110001.
7. The Chief General Manager, Telecom, Bharat Sanchar Nigam Limited, Jharkhand Circle, Ranchi (Jharkhand).
8. The General Manager (Finance), Bharat Sanchar Nigam Limited, Jharkhand Circle, Ranchi (Jharkhand).
9. The Telecom District Manager, Telecom District, Bharat Sanchar Nigam Limited, Dumka (Jharkhand).

.... Respondents.

By Advocate: - Mr. B.K. Pathak

**ORDER**

**Per Dinesh Sharma, A.M:-** The grievance of the applicant is that he has not been granted promotion to the grade of Senior Accounts Officer in the IDA pay scale of Rs. 13,000-18250/- and also promotion in the grade of Senior Time Scale (CAO/AGM) in the IDA scale of Rs. 29100-54500/- respectively when promotions were granted in favour of various persons junior to him vide orders dated 31.10.2005, 30.08.2012 and 03.11.2014. This denial of promotion, according to the applicant, is without any rhyme or reason since there was no disciplinary proceeding pending against him at any of these times when promotions were granted to his juniors. Applicant has also alleged that he has not been granted benefit of Time Bound Financial Upgradation due to him since 01.10.2004, 01.10.2009 and 01.10.2014. This too, according to him, is wrong and he should be granted the benefit of financial upgradation as well as promotion from the dates these are granted to his juniors. The applicant has admitted that there were departmental proceedings initiated against him by issuing charge sheet against him on 26.11.2005 for major penalty, 20.01.2006 and 05.05.2006 for minor penalty in which he was imposed punishment of reduction one stage below for two years and withholding of one increment without cumulative effect vide orders dated 04.04.2009, 05.01.2007 and 23.12.2006 respectively. Since the currency of this punishment commenced from 01.10.2007 to 03.04.2011 it is clear that before 26.11.2005 and after 03.04.2011 there is neither any disciplinary proceeding or punishment in force against him. Hence, denying him punishment on grounds of these

disciplinary action is entirely unjustified in the light of various judicial pronouncements.

2. The respondents have denied the claim of the applicant in their written statement. They have alleged that there was a complaint against the applicant which was forwarded by TDM, Raigarh on 08.08.2005 following which a charge sheet under Rule-14 was serviced on the applicant vide memo dated 26.11.2005. Following a detailed enquiry, a punishment of recovery of Rs. 1,01,923/- was imposed on him and his pay was reduced by one stage for two years with cumulative effect. His promotion from AO to Sr. AO was not considered in the year 2005 because of the complaint mentioned above and any further promotion from AO to Sr. AO was not considered later because the Sr. AO cadre was declared as a dying cadre and no further DPC for promotion from AO to Sr. AO was ever conducted thereafter. Regarding not considering further promotion to the CAO level the written statement alleges that this was not done because the applicant was not a CAO (ad-hoc) and promotion orders for CAO (Regular) were issued only in respect of those who were already CAO (ad-hoc). The respondents have submitted that all time bound upgradations have been granted to the applicant since 01.10.2004 to 01.10.2014 during his posting as AO at Kolkata Telephones. As per O/o CGMT, Calcutta Telephones letter no. ABB-3140/FA/Vol. V/Upgradation/184, dtd. 10.04.17, 2<sup>nd</sup> & 3<sup>rd</sup> IDA Pay upgradation, i.e. E3 to E4 (w.e.f. 1/10/2011) & E4 to E5 (w.e.f. 01/10/2016) have already been granted to the applicant.

3. The respondents have filed a Supplementary WS giving para wise reply in which they have reiterated that the promotion from AO to SR. AO was not recommended because of his case was not recommended on account of charge sheet under Rule 14 pending against him. Regarding promotion order dated 30.08.2012 (from AO to CAO ad-hoc), the name of the applicant was in the eligibility list but considering the vacancy position he was not considered for promotion. The Written Statement mentions in the same paragraph [6(c)] that further promotion order for CAO (regular) was issued only in respect of those who were already CAO (ad-hoc). Since the applicant was not CAO ad-hoc he was not considered for promotion.

4. We have gone through the pleadings and heard the learned counsels of both the parties who reiterated the stand taken by them in their respective pleadings. We find that there was some justification for not considering his case for promotion in the year 2005 because of a disciplinary action contemplating major penalty being in contemplation at that time. Though the applicant has argued that the charge sheet was issued later and therefore, following the ratio of judgment in the case of Union of India & Ors. Vs. K.V. Janakiraman [ (1991) 4 SCC 109], he should have been considered for promotion at that time. We find this argument not maintainable now. If the applicant had any claim for promotion at that time, he should have raised it earlier. The reason given by the respondents for not considering his case for promotion on 30.08.2012, however, is prima facie reasonable. The respondents have argued, in the same paragraph, that it was not done considering the vacancy position and also because

promotions were issued only in respect of those who were already CAO ad-hoc. The respondents have not denied that he was in the zone of consideration and persons junior to him were promoted. In this situation giving the aforementioned flimsy reasons for denying promotion is definitely not correct. The respondents have alleged having granted all the financial upgradations, as and when due, and this statement has not been denied by the applicant by filing any rejoinder.

5. In the light of the above, we consider the claim of the applicant for grant of promotion along with his juniors w.e.f. 30.08.2012 to be based on reasonable grounds. Since the applicant has already retired it may not be possible to pay him for the higher post against which he has not worked. It will be enough if he is granted notional promotion from that date and his retirement benefits are re-worked on that basis. Orders to this effect be passed by the respondents within two months of receipt of this order. The OA is disposed of accordingly. No order as to costs.

**[ Dinesh Sharma ]**  
**Administrative Member**  
**Srk.**

**[Jayesh V. Bhairavia]**  
**Judicial Member**