

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.212/2003

New Delhi, this the 5th day of January, 2004

Hon'ble Shri Kuldip Singh, Member(J)
Hon'ble Shri S.K. Naik, Member(A)

T.S. Krishnamurthy
E-112, Nanakpura
New Delhi

.. Applicant

(Shri S.N.Anand, Advocate)

versus

Union of India, through

1. Secretary
Deptt. of Telecom
Sanchar Bhavan, New Delhi
2. Member(Finance)
Telecom Commission
Sanchar Bhavan, New Delhi
3. Chairman & Managing Director
Bharat Sanchar Nigam Limited
New Delhi
4. Assistant Director General(SEA)
Bharat Sanchar Nigam Limited
Sanchar Bhavan, New Delhi

.. Respondents

(Shri H.K.Gangwani with Shri A.S.Bawa, Advocates)

ORDER

Shri S.K. Naik

By virtue of the present OA, applicant is seeking a direction to Respondents No.1 and 2 to consider his case for promotion to the post of Assistant Chief Accounts Officer(ACAO) and promote him as such if found fit w.e.f. 23.4.2002 when his juniors were promoted by order dated 23.4.2002 and declare the action of Respondents No.3 and 4 in promoting DoT officials with them on deemed deputation basis as null and void.

2. According to the applicant, who on promotion was appointed as Accounts Officer w.e.f. 1.1.1996 and was further promoted as Senior Accounts Officer w.e.f. 1.9.1999; He has put in seven years combined service as of now to be eligible for promotion to the grade of ACAO. The grievance of the applicant is that Respondent No.4

Order



vide its order dated 23.4.2002 have promoted two of his juniors namely Bhim Sain and B.R.Dhawan as ACAO ignoring his superior claim. He has further alleged that even on an earlier occasion BSNL has promoted several juniors ignoring his claim. Applicant further contends that by letter dated 12.8.2002 he was asked to give his willingness to work in Corporate Office of BSNL and even without waiting for his willingness, he was transferred to BSNL by order dated 20.9.2002. He made repeated representations, the last one being 15.7.2002 but without success. In the meantime, another junior namely A.K.Sharma has also been promoted vide order dated 17.10.2002. Hence this OA.

3. Respondents in their reply have taken a preliminary objection inasmuch as that BSNL does not come under the jurisdiction of the Tribunal and therefore applicant's grievance against the order dated 23.4.2002 passed by BSNL cannot be adjudicated upon by this Tribunal. We are inclined ^{to agree to} with his contention in view of the various decisions taken by this Tribunal in this regard.

4. In so far as applicant's allegation that his juniors have been promoted by the aforesaid order, respondents have stated that Bhim Sain and B.R.Dhawan, who are already the employees of BSNL, were promoted on the strength of powers delegated by R-2 to subordinate units including BSNL and the said promotion was only on local officiating basis restricted to a period of 90 days strictly within the particular unit and not based on all-India seniority and the same cannot be claimed as a matter of right. They have clarified that Deptt. of Telecom Services and Deptt. of Telecom Operations were

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converted into BSNL and the staff working therein were transferred on deemed deputation to BSNL. Applicant was given the option to join BSNL but he failed to give unconditional acceptance. Pursuant to various representation of the applicant and since no post of ACAO was available in DoT hqrs., Respondent No.2 ordered posting of the applicant to the CO, BSNL to facilitate him to get his local officiating promotion to the higher grade in BSNL. But he did not give his explicit willingness and so he was not relieved. In view of this, the applicant has no case and the OA be dismissed.

5. Heard the learned counsel for the parties and perused the records.

6. The main plank of attack by the applicant in support of his claim for promotion is that BSNL has no powers to promote DoT officials working there on deemed deputation basis without prior consultation with the lending department and that Department of Telecom continues to be the cadre controlling authority which ought to have asserted its right to negate and thwart any attempt on the part of BSNL that would upset the accepted principles of seniority leading to demoralisation.

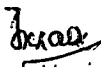
7. Reacting sharply to this, respondents counsel contended that BSNL is a separate entity after incorporation under the Company Law and DoT is a separate unit. The local officiating promotion of the officers working in these different units cannot be compared with each other on the plea of all-India seniority any more. However, the case of the applicant for promotion to the higher grade will be considered as per his turn subject

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to the availability of vacancy. As regards the next point, respondents submit that Respondent No.3 (BSNL) has been delegated powers for making local officiating promotions upto the grade of JAG to all units even after formation of BSNL for the officers working in BSNL on deemed deputation.

8. It would be apparent to note that the aforementioned two officers, who have already become employees of BSNL by virtue of their option, were promoted on purely local officiating basis for a period of 90 days w.e.f. 23.4.2002 and since then more than 18 months have elapsed. Though the respondents' counsel has not been able to assert or deny whether these officers continue to work against the promotion post even as of now, the fact remains that this Tribunal has no jurisdiction against the order passed by BSNL or the employees working under it. Again, when the applicant has declined to give his option for shifting over to BSNL when he was offered promotion and particularly when the respondents have assured that the case of the applicant for promotion would be considered as and when vacancy arises and subject to his coming in the zone of consideration, applicant should have no grievance against the order dated 23.4.2002.

9. In view thereof, we find no merit in the present OA and the same is accordingly dismissed with no order as to costs.


(S.K. Naik)
Member(A)


(Kuldip Singh)
Member(J)

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