

Central Administrative Tribunal, Principal Bench

Original Application No.533 of 2002

New Delhi, this the 6th day of February, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman  
Hon'ble Mr. S.K. Malhotra, Member (A)

Shri S.K. Puri,  
Dy. Chief Electrical Engineer (Plg.)  
Northern Railway,  
Baroda House, New Delhi

.... Applicant

(By Advocate: Ms. Meenu Mainee)

Versus

1. Union of India through  
The Chairman,  
Railway Board,  
Ministry of Railways,  
Rail Bhawan, Raisina Road,  
New Delhi-1

2. The Secretary  
Ministry of Railways,  
(Railway Board)  
Rail Bhawan, Raisina Road,  
New Delhi-1

.... Respondents

(By Advocate: Shri H.K. Gangwani with Shri D.S. Jagotra)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

By virtue of the present application, Shri S.K. Puri hereinafter described as the applicant seeks a direction to re-consider his case for promotion to Senior Administrative Grade (SAG) ignoring the confidential reports. He has been graded as 'Good' which according to him, had not been communicated.

2. Some of the relevant facts can conveniently be delineated. The applicant had joined the service in the Indian Railways and had been promoted to the Junior Administrative Grade (JAG). When the departmental promotion committee meeting for his further promotion to SAG had taken place, the claim of the applicant had been

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ignored. The grievance of the applicant is that the bench-mark for such a promotion is "Very Good". Even if the applicant had 'Good' reports, the same should have been communicated to him and since it had not been so communicated, it violates the dictum of the Supreme Court in the case of U.P. Jal Nigam & Ors. vs. Prabhat Chandra Jain & Ors., SC SLJ 1996 (1) 335. Hence the present application claiming the relief which has been mentioned by us in the opening paragraph.

3. In the reply, the application as such has been contested. The respondents assert that by virtue of the present application, the applicant is challenging the adverse remarks communicated to him of the year 1997-98. The present application filed is barred by time whereby he claims that the said remarks could be ignored. On merits of the matter, it is not in controversy that the bench-mark for the SAG is "Very Good". All those whose performance fell below the bench-mark, were not eligible for empanelment. The officers who are graded as 'Outstanding' by the departmental promotion committee were placed above all those graded as "Very Good". The applicant's grading was not even "Very Good" and necessarily the claim of the applicant had to be ignored.

4. We have gone through the confidential reports of the applicant. Perusal of the same shows that the applicant had consistently been graded as 'Good'. For the year 1997-98, adverse remarks had been communicated to him pertaining to certain facts including not attending the

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meetings and about the use of the language by him. He had represented against the said adverse entries. His representation had been rejected on 29.10.98 by the General Manager, Northern Railway and the said letter which was communicated to the applicant reads -

"Your above quoted representation in connection with adverse remarks in your confidential report for the period ending 31.3.1998, communicated vide this office letter of even number dated 13.7.1998, had been put up to the competent authority (GM) in the relevant case file for his consideration.

2. As per your request dated 14.9.1998 GM/CORE has also heard you in person on the above subject, on date. After careful consideration of your representation - written as well as in person - he has regretted his inability to expunge the adverse remarks as these bring out certain areas requiring improvement. However, GM has decided that these remarks may be treated as only advisory.

3. Please acknowledge receipt."

5. At that time, the applicant had not cared to challenge the order/letter rejecting his representation. Presently therefore, in an indirect method, by filing the present application, the applicant cannot put the clock behind and start challenging the said entries that had occurred in his confidential reports. It is too late in the day to do so because the period of limitation started running in October, 1998.

6. Be that as it may, we have seen the confidential reports including the one referred to in the preceding paragraphs. Once there is an adverse entry referred to above and as in the case of the applicant for the last five years when the departmental promotion committee meetings

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took place, even if for the sake of argument the plea of the applicant is taken note of that the same should be taken to be "Very Good" because they were not communicated, the net result is the same. The argument becomes academic in the facts of the present case because of the adverse entry ~~not~~ having been communicated. The department, in the peculiar facts, could and did rightly ignore the claim of the applicant. Consequently we are not dwelling into the controversy about non-communication of the other confidential reports.

7. In face of the aforesaid, once the ~~best~~ method for promotion to SAG was selection and the confidential reports of the applicant indicate adverse entry, he could well be ignored. Resultantly O.A. must fail and is dismissed.

  
( S.K. Malhotra )  
Member (A)

  
( V.S. Aggarwal )  
Chairman

/dkm/