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Central Administrative Tribunal, Principal Bench

O.A. No.536/2002

New Delhi this the 5th day of November, 2002

Hon'ble Mr. M. P. Singh, Member (A)
Hon'ble Mr. Shanker Raju, Member (J)

Shri Jawahar Lal
S/o Shri Munshi Lal
R/o House No.385, Ram Nagar, Mangal Puri,
Kankarkhera, Meerut Cantt.,
U.P..

- Applicant

(By Advocate : Shri D.R. Gupta)

Versus

1. U.O.I. through
C.G.M.T. (W) U.P. Telecom Circle,
Windless Complex, Rajpur Road,
Dehradun, U.P..
2. A.G.M. (Operation), J.M.T.D. Office,
Meerut, U.P..

- Respondents

(By Advocate : Shri M.M. Sudan)

ORDER (ORAL)

Hon'ble Mr. M.P. Singh, Member (A):

By filing this OA, the applicant has sought the following reliefs:-

- a. To allow the application with cost;
- b. To set aside and quash the non promotion order of the applicant to officiate in TES Group 'B' w.e.f. 02.11.2001;
- c. To direct the respondents to consider promoting the applicant to officiate in TES Group 'B' from the date the persons similarly situated to him have been promoted, with all consequential benefits."

2. The brief facts of the case, as stated by the applicant, are that the applicant, who is working as J.T.O. in the office of General Manager, Telecom Distt.,



Meerut, was earlier promoted to officiate to the Telecom Engineering Service (TES) Group 'B' w.e.f. 23.10.2000 for 180 days. He was again promoted for another 180 days to officiate as TES Group 'B' post w.e.f. 9.4.2001. Thereafter the respondents have denied him promotion to the post of TES Group 'B' when his colleagues were promoted for 179 days on the ground that he was not recommended for promotion. Aggrieved by this, applicant has filed the present OA claiming the aforesaid reliefs.

3. Respondents in their reply have stated that the applicant was not considered by the DPC for promotion under local officiating arrangement to TES Group 'B' due to physical defect in his confidential report for the period from 1.4.2000 to 31.3.2001. These remarks do not require any communication to the applicant as per rules.

4. Heard learned counsel for the parties and perused the material placed on records.

5. It is an admitted position that the applicant has been promoted to the next higher post of TES Group 'B' under local officiating arrangement twice. It is only on the third occasion that the applicant has been denied promotion to the next higher post by the respondents due to some remarks related to his physical defect in his confidential report for the period from 1.4.2000 to 31.3.2001.

6. As per the DPC guide-lines and also the instructions issued by the Govt. on the subject, if



there are adverse remarks in the confidential report of a Govt. servant, the same are required to be communicated to the concerned Govt. servant and the Govt. servant has the right to make a representation against those adverse remarks.

7. In this case, no adverse remarks including the one relating to the physical defect of the applicant have been communicated by the respondents to him. It is also not the case of the respondents that the applicant is medically unfit for promotion to the next higher post. Mere apprehension/suspicion that the applicant has some physical defect cannot be a ground to deny promotion to the applicant to the next higher grade.

8. In view of the above discussion, the impugned order dated 24.1.2002 (Annexure A-1) cannot sustain and, therefore, the same is liable to be quashed. We, accordingly quash and set aside the order dated 24.1.2002 and direct the respondents to reconsider the case of the applicant by convening a Review DPC to consider the case of the applicant for his promotion to the next higher post of TES Group 'B' in accordance with law, rules and instructions within a period of two months from the date of receipt of a certified copy of this order.

9. Subject to aforesaid, OA is disposed of. No costs.

S. Raju

(Shanker Raju)
Member (J)

M.P. Singh

(M.P. Singh)
Member (A)

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