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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

C.P. NO.9/2004

in

O.A. NO.1595/2002

This the 3rd day of October, 2005.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Lalit Kumar S/O Kishori Lal Gupta,
R/O A4/230, Paschim Vihar,
New Delhi.

... Applicant

(By Shri S.C.Saxena, Advocate)

Versus

1. Shri Pawan Chopra,
Secretary, Ministry of Information
& Broadcasting, Shastri Bhawan,
New Delhi.

2. Shri K.S.Sarma,
Director General,
All India Radio,
Akashvani Bhawan,
Parliament Street,
New Delhi.

... Respondents

(By Shri S.M.Arif, Advocate)

ORDER

Hon'ble Shri V.K.Majotra, Vice-Chairman (A):

OA No.1595/2002 was allowed on 27.3.2003 with the following
observations/directions to respondents:

- (i) The impugned letter dated 15.6.2001 is quashed and set aside;
- (ii) Respondent No.1 is directed to take necessary steps to hold a Review DPC to consider the case of the applicant for promotion to the post of Assistant Engineer (Electrical) from the due date, i.e., 27.6.1980, keeping in view the aforesaid observations, including their own submission that there was no CBI case pending against the applicant at the relevant time;
- (iii) Respondent No.1 shall also take into consideration the other grounds taken by the applicant, including the ACRs

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of the applicant to ensure that these have been written strictly in accordance with the relevant provisions of law and rules before the same is placed before the review DPC for necessary action as above;

- (iv) The above action shall be taken within three months from the date of receipt of a copy of this order, with intimation to the applicant;
- (v) In the circumstances of the case, cost of Rs.2,000/- (Rupees Two Thousand only) is imposed against the respondents in favour of the applicant."

Vide the aforesaid order, respondents were directed to (i) take into consideration the other grounds taken by applicant in the OA including the ACRs; (ii) to ensure that the ACRs were written strictly in accordance with the relevant provisions of law and rules; and (iii) this was to be done before the ACRs were placed before the review DPC to be convened as per Tribunal's directions contained in paragraph 8(ii) of order dated 27.3.2003.

2. Applicant had filed CP No.9/2004 alleging disobedience of Tribunal's orders dated 27.3.2003. The same was disposed of vide order dated 3.1.2005 on the ground that the ACRs were found to have been written by the competent authorities by the Secretary, Ministry of Information and Broadcasting, and review DPC had also been held. These orders were recalled vide orders dated 31.8.2005 in MA No.1911/2004 and orders dismissing CP No.9/2004 were also recalled and the CP was restored to its original number.

3. We have heard the learned counsel of both sides afresh on CP.

4. The learned counsel of applicant pointed out that among other things, respondents had been directed vide orders dated 27.3.2003 in OA No.1595/2002 that respondent No.1 should take into consideration the "other grounds" taken by applicant including that the ACRs were written strictly in accordance with the relevant provisions of law and rules. The learned counsel stated that not only that the ACRs should have been written in accordance with the relevant rules, it was to be seen that all other grounds taken by applicant in the OA were also taken into

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consideration. He maintained that respondent No.1 had not fully complied with these directions. He pointed out that in the additional affidavit filed by Secretary, Ministry of Information and Broadcasting on 8.9.2004 he had only stated that the ACRs were reported by the Assistant Engineer [AE(E)], reviewed by Executive Engineer [EE(E)] and countersigned by the senior officer to the EE(E) in the Electrical discipline. He further stated that affidavit does not disclose how other grounds taken in the OA were considered by the Secretary. He thus maintained that until the directions were complied with fully, the DPC could not have been held.

5. The learned counsel of respondents, on the other hand, stated that applicant had basically stated that his ACRs had been forged and fabricated. The Secretary, Information and Broadcasting had certified vide his affidavit dated 8.9.2004 that they had been written as per rules and as such they were not forged or fabricated.

6. From the directions contained in our orders dated 27.3.2003 whereby the OA was allowed, respondent No.1 had also been asked to "take into consideration the other grounds", apart from the ground whether the ACRs had been written in accordance with the provisions of law and rules before being placed before the review DPC. Various grounds taken by applicant in the OA are contained in paragraph 5 of the OA in which, among other things, it had also been alleged that the downgradation of the ACRs of applicant had been done by his superior officers whose misconduct and corrupt activities were exposed by applicant as a result of which CBI inquiry was initiated against them and as such, such downgradation was unjustified, spoke of victimization and *mala fides*. In the affidavit filed by respondent No.1, there is no mention about the grounds other than writing of ACRs as per rules taken in the OA. Thus, clearly respondent No.1 has not implemented directions of this Court in full.

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7. This CP as such, is disposed of providing another opportunity to respondent No.1 to take into consideration the other grounds taken by applicant in his OA apart from whether the ACRs had been written in accordance with the relevant provisions of law and rules, and in case respondent No.1 finds substance in the other grounds from the records, a review DPC should be held to consider his conclusions on the other grounds as well. Respondent No.1 shall take necessary steps to hold review DPC to consider the case of applicant for promotion to the post of Assistant Engineer (Electrical) from the due date, i.e., 25.7.1980, within a period of three months from the date of receipt of a copy of these orders, with intimation to applicant.

8. CP stands disposed of.

(Shanker Raju)
Member (J)

(V. K. Majotra)
Vice-Chairman (A)

3.10.05

/as/