

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.1570/2001

This the 7th day of May, 2002.

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

V.S.Arora,
Additional Chief Engineer,
E-in-C's Br, Kashmir House,n),
Army Headquarters,
New Delhi-110011.

... Applicant

(By Shri O.P.Kalshian, Advocate)

-versus-

1. Union of India through
Secretary, Ministry of Defence,
DHQ PO, New Delhi-110011.
2. Engineer-in-Chief,
Army Headquarters,
Kashmir House, DHQ PO,
New Delhi-110011.
3. Shri R.C.Tripathi CE.
4. Shri B.L.Singhal, CE.
5. Shri Dinesh Sikand, CE.
6. Shri S.K.Sharma, CE.
7. Shri D.K.Jain, CE.
8. Shri T.K.Saha, CE.
9. Shri S.C.Soti, CE.
10. Shri Narayan Wadhwani, CE.
11. Shri Mahendra Prasad, CE.
12. Shri S.V.Ramamurthy, CE.
13. Shri Narendra Kumar, CE.
14. Shri R.C.Sehgal, CE.
15. Dr. S.Balasubramanian, CE. ... Respondents

(Respondents 3-15 C/O Engineer-in-Chief,
Army Headquarters, Kashmir House,
DHQ PO, New Delhi-110011).

(None present)

O R D E R (ORAL)

Hon'ble Shri V.K.Majotra, Member (A) :

As none has appeared on behalf of respondents, we have proceeded to dispose of this OA in terms of rule 16 of the Central Administrative Tribunal (Procedure) Rules, 1987, after hearing the learned counsel of applicant and considering the respective pleadings of both sides and material on record.

2. Applicant is aggrieved by his supersession in promotion in the grade of Chief Engineer in the Military Engineering Service, Ministry of Defence for the vacancies for the years 1999-2000 and 2000-2001 vide Annexure A-1 dated 9.10.2000. Applicant has sought and quashing and setting aside of the Annexure A-1 panel for promotion of Additional Chief Engineers with a direction to respondents to hold review DPC for promotion of applicant to the grade of Chief Engineer for the year 1999-2000 and 2000-2001 in accordance with law, and to promote him with effect from the date his juniors mentioned at sl. nos. 3-15 as respondents, have been promoted, with all consequential benefits.

3. Learned counsel of applicant stated that DPC was held clubbing five vacancies of Chief Engineer for the year 1999-2000 and eleven vacancies for the year 2000-2001. Whereas the last ACR for the DPCs for vacancies for the year 1999-2000 should have been up to March, 1998 and that for the vacancies for the year 2000-2001 the last ACR should have been up to March, 1999, the DPC considered the same set of ACRs for

vacancies for the aforestated two years. Learned counsel also stated that whereas the benchmark for promotion to the post of Chief Engineer is "very good", respondents had not communicated the ACRs for the relevant years which were below the benchmark. The learned counsel relied on the following :

- (1) U.P.Jal Nigam & Ors. v. Prabhat Chandra Jain & Ors., JT 1996 (1) SC 641;
- (2) Order dated 2.2.2001 in C.W. No.715/2001 (filed against Tribunal's order dated 16.8.2000 in OA No.456/2000) in Union of India & Anr. v. B.L.Srivastava & Ors.;
- (3) Order dated 27.2.2002 in CW No.1386/2002 (filed against Tribunal's order dated 12.11.2001 in OA No.1936/2001) in Union of India & Anr. v. R.K.Anand.

4. Respondents have admitted that the name of applicant was considered for promotion to the post of Chief Engineer in the DPC held on 14.7.2000 but due to his low grading vis-a-vis the desired benchmark "very good" his name could not be empanelled. According to respondents, DPC was held clubbing five vacancies for the year 1999-2000 and eleven vacancies for the year 2000-2001 by the DPC. The DPC took into account the ACRs of the eligible officers for the last eight years from 1991-92 to 1998-99. 16 eligible officers were promoted by drawing year-wise panel. The name of applicant was also considered for the vacancy years 1999-2000 and 2000-2001. His grading against these vacancy years was "good" which was below the benchmark "very good". Therefore, he could not be promoted as Chief Engineer.

W

13

- 4 -

5. Whereas respondents have stated not to have clubbed the vacancies for the years 1999-2000 and 2000-2001, they have admitted that the DPC considered the same set of ACRs from 1991-92 to 1998-99 for vacancies for both the years. We are in agreement with applicant here that the DPC could not have taken into account the same set of ACRs for the vacancies for two different years. As respondents have not come present before the Court, an adverse inference is drawn that applicant's grading for different years though below the benchmark and not communicated to him, was taken into consideration while considering him for empanelment and consequently he was superseded.

6. The gist of the judgments cited above is that in the event a benchmark "very good" is fixed, ACRs classified as lower than "very good" should be communicated to the concerned official. As such ACRs categorised as "good" are unsustainable.

7. In the light of the above discussion, we quash and set aside applicant's assessment by the DPC held on 14.7.2000 for the vacancies of Chief Engineer for the years 1999-2000 and 2000-2001 and direct respondents to convene a review DPC for reconsidering applicant's case for promotion to the post of Chief Engineer for the years 1999-2000 and 2000-2001 ignoring the ACRs in which he was graded as "good" and when such ACRs were not communicated to applicant. Applicant's claim for promotion to the post of Chief Engineer be considered in the above terms within a period of three months from the date of receipt

W

(P)

- 5 -

of these orders, as per rules and relevant instructions on the subject. In this manner, if applicant is found fit for promotion to the post of Chief Engineer he may be promoted to the post of Chief Engineer with effect from the date his immediate junior was promoted, with all consequential benefits.

8. Present OA is allowed in the aforesated terms.

No costs.

S. Raju

(Shanker Raju)
Member (J)

/as/

V.K.Majotra

(V.K.Majotra)
Member (A)

File No. 3535/12-1
Date Received 10/10/87