

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.276/2001

Monday, this the 5th day of November, 2001

Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri S.A.T. Rizvi, Member (A)

Dr. G.D.Goel
Reader and Head of the
Mathematics Department
Army Cadet College Wing
I.M.A.
Dehra Dun.

..Applicant

(By Advocate: Shri D.R.Gupta)

Versus

1. Union of India through
the Secretary
Govt. of India
Ministry of Defence
South Block
New Delhi
2. Director General of Military Training
Sena Bhawan
New Delhi
3. U.P.S.C. through the Chairman
Dholpur House
Shahjahan Road
New Delhi

..Respondents

(By Advocates: Shri R.V.Sinha for R-1 and 2
Mrs. B.Rana for R-3)

O R D E R (ORAL)

Hon'ble Shri S.A.T. Rizvi:

The applicant, who was appointed as Reader in Mathematics on 24.10.1981, became eligible for promotion to the post of Principal after completion of 5 years of service on 24.10.1986. He was accordingly considered by a DPC meeting held in 1992 but was found not suitable. On being aggrieved by the recommendation of the DPC, the applicant came up before this Tribunal in OA-2029/93 which was decided on 30.7.1999 with a direction to the respondents to convene a review DPC to consider the applicant's case on the basis that he was eligible for

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promotion to the post of Principal w.e.f. 24.10.1986. In compliance of the aforesaid order, a review DPC meeting was held in March, 2000 but the applicant has again been over-looked on the basis that he was not found suitable for promotion. Hence this OA.

2. We have heard the learned counsel on either side and have perused the material placed on record.

3. The learned counsel appearing on behalf of the applicant submits that the review DPC held in March, 2000 has committed an error by relying on the DOPT's OM dated 10.4.1989 and 27.3.1997. The aforesaid OMs, according to him, can be applied only ^{pro}perspectively and not with retrospective effect so as to cover the case of the applicant. According to him, the OM dated 30.12.1976 (Annexure A-1) still in force at the material time will find application in the case of the applicant and the same should have been kept in view by the review DPC. The learned counsel further submits that while the instructions issued in 1989 and 1997 insist on a bench-mark of 'very good' for considering the claims of Readers for promotion to the post of Principal, the aforesaid OM of December, 1976 makes no such stipulation and this, according to him, would make all the difference to the case of the applicant.

4. The learned counsel appearing on behalf of the respondent Nos. 1 and 2 admits that the review DPC had kept in view the guide-lines contained in the aforesaid OMs dated 10.4.1989 and 27.3.1997, although there is a

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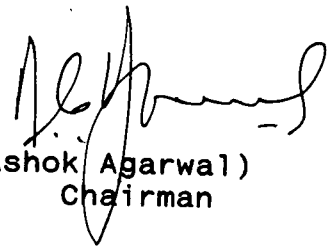
denial on behalf of respondent No.3 that the OM dated 30.12.1976 was not adhered to. The learned counsel are, however, in agreement with the learned counsel for the applicant in regard to the bench-mark fixed for the purpose of promotion. Admittedly, there was no bench-mark of 'very good' in December, 1976's OM, whereas the same finds place in the aforesaid OMs relied upon by the review DPC. There is, in the circumstances, substance as well as merit in the claim made on behalf of the applicant and the OA succeeds. The result of the review DPC held in March, 2000 is quashed and set aside with a direction to respondent No.3 to re-convene a review DPC and to consider the claim of the applicant for promotion in accordance with the aforesaid OM dated 30.12.1976. The respondent No.3 will be at liberty to have regard, in addition, to such other OMs on the subject as might have been issued by the DOPT before 24.10.1986. The aforesaid exercise will be completed in a period of four months from the date of receipt of a copy of this order.

5. The present OA is disposed of in the aforestated terms. No costs.



(S.A.T. Rizvi)
Member (A)

/sunil/



(Ashok Agarwal)
Chairman