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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. NO.1938/1999

New Delhi this the 27th day of March, 2000.

HON'BLE SHRI JUSTICE V.RAJAGOPALA REDDY, V.C.(J)

HON'BLE SMT. SHANTA SHASTRY, MEMBER (A)

H.C.Pande S/O Late Jiten Pande,  
Additional director (HQ),  
Directorate General of Aeronautical  
Quality Assurance (DGAQA),  
Ministry of Defence, H-Block,  
New Delhi.

...Applicant

( Applicant in person )

-Versus-

1. Union of India through Secretary,  
(Department of Defence Production  
& Supplies), Ministry of Defence,  
South Block, New Delhi.
2. Director General, DGAQA,  
Ministry of Defence, H-Block,  
New Delhi.
3. Shri Y.R.Mahajan,  
Zonal director (South),  
At O.C.R.I., Bangalore.
4. Shri D.K.Sharma,  
Director at Headquarters,  
New Delhi.
5. Shri R.N.Sharma,  
Zonal Director (North),  
At O.C.R.I.,  
Lucknow.

...Respondents

( By Shri P.I.Oommen, proxy counsel along with Shri  
T.R.Chhabra, Asstt. Director (Admn.), departmental  
representative )

O R D E R (ORAL)

Shri Justice V.Rajagopala Reddy, VC(J) :

The question that is under consideration in this  
case is whether the order of appointment by promotion  
of respondents 3, 4 and 5 in the posts of Director in



Directorate General of Aeronautical Quality Assurance (DGAQA), Ministry of Defence, is liable to be set aside.

2. The applicant is an Additional Director and he is eligible under the rules for consideration for promotion. Three posts of Director fell vacant in 1996-97. The respondents convened a DPC only on 30.7.1999. The DPC considered the names of the applicant as well as respondents 3, 4 and 5 for promotion to the post of Directors and the impugned order was passed promoting respondents 3, 4 and 5. It is the case of the applicant that though he is the seniormost he was illegally ignored for promotion. It is his specific case that he was not communicated with any adverse remarks and that his record being excellent throughout, there was no reason to ignore the applicant while promoting his juniors.

3. The case of the respondents is, however, that as the applicant did not come up to merit in view of the low overall gradation in his ACRs for the relevant years, though he was considered for promotion, he could not be promoted.

4. The only question, therefore, that is to be considered is whether the applicant has been rightly considered by the DPC for promotion to the post of Director. It is an admitted case that the applicant being eligible was considered along with others for promotion. Since it is the case of the respondents that applicant was not promoted as his ACRs were not



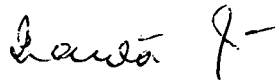
up to the mark, we directed the respondents to produce the record including the ACRs and the DPC proceedings. Accordingly, the respondents have brought the record and we have perused the same carefully. A perusal of the ACRs and the DPC proceedings manifests that the applicant has got the gradation 'good' and he did not get the gradation 'very good' in any year during the relevant period, which is the least benchmark for consideration for promotion.

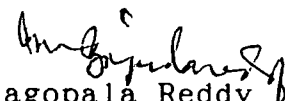
5. It is, however, contended by the applicant appearing in person that any confidential report with the overall gradation below the benchmark will have the element of adverseness and, therefore, such a report/remark should have been communicated to the applicant. We do not agree. Adverse remarks made by the concerned authorities normally shall indicate adverse conduct or character of the employee in performing his duties. When such an adverse remark is made by the authorities, it is but necessary to inform the employee so that the employee would correct his behaviour as early as possible in order to prove himself a better official in future. The benchmark for promotion is the mark fixed under the guidelines to consider an employee fit for promotion. Getting a gradation less than the set benchmark would not in any way reflect against the character or conduct of the employee concerned. In the circumstances, in our view, the overall gradation obtained by the applicant would not <sup>be</sup> construed <sup>as</sup> an adverse remark in the sense in which the adverse remarks are treated in service jurisprudence. We are supported in our view with the

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decision in B.P.Singh v. Union of India & Ors., (1994) ATC 601 (CAT, Patna). Therefore, the action of the respondents in promoting respondents 3, 4 and 5 cannot be said to be illegal.

6. In view of the above discussion, we are of the considered view that the impugned order is passed in accordance with rules. It is, therefore, not possible for us to interfere with the same. The O.A. is, therefore, dismissed. No costs.

  
( Shanta Shastri )  
Member (A)

  
( V. Rajagopala Reddy )  
Vice Chairman (J)

/as/