

Central Administrative Tribunal, Principal Bench

Original Application No. 268 of 1999

New Delhi, this the 10th day of July, 2001

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. M.P. Singh, Member (A)

Shri L.B. Choubey,
S/o late Shri Aditya Choubey
aged about 51 years
R/o D-718, Mandir Marg
Gole Market, New Delhi-1

- Applicant

(By Advocate: None)

Versus

The Secretary
Indian Council of Agricultural Research
Krishi Bhawan
New Delhi-1

- Respondent

(By Advocate - Dr. S.P. Sharma)

O R D E R (ORAL)

By Mr. M.P. Singh, Member (A)

The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking direction to quash and set aside the order dated 17.12.98 (Annexure A-1) and has also sought direction to quash and set aside the down-gradings given by the reviewing officer in various ACRs of the applicant without communicating the same to him. He has further sought direction to respondents to promote him to the grade of Section Officer w.e.f. the date his juniors are promoted as Section Officer with all consequential benefits including seniority, arrears of pay and allowances and qualifying service etc.

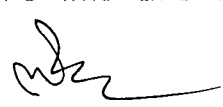
2. Brief facts of the case, as stated by the applicant, are that he was initially appointed as Junior Store Keeper w.e.f. 13.10.71. The same post was later on redesignated as Upper Division Clerk. He was further



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promoted as Assistant w.e.f. 22.6.77. According to the applicant, next promotional avenue open to him is to the grade of Section Officer. As per the recruitment rules, the post of Section Officer is a non-selection post and Assistants having eight years of regular service are eligible for promotion on the basis of seniority-cum-fitness. According to him, DPC meetings were convened for considering the eligible candidates for promotion to the post of Section Officer in the month of August, 1995, 1996, 1997 and 20th December, 1998. The applicant was eligible to be considered for the post of Section Officer in the said DPCs. The DPCs considered the case of the applicant alongwith others and even though the post of Section Officer is a non-selection post, he was ignored for promotion and persons junior to him were promoted to the post of Section Officer. In view of his non-promotion to the post of Section Officer, the applicant made number of representations to the respondents. The respondents have rejected his representations. Aggrieved by this, he has filed this OA seeking aforesaid reliefs.

3. The respondents in their reply have stated that the post of Section Officer is a non-selection post. As per Government of India instructions contained in para 7 of Chapter 53 of Swamy's Compilation on Establishment and Administration, it is laid down that "where the promotions are to be made on 'non-selection' basis, the DPC need not make a comparative statement of records of officers and it should categorise the officer as 'fit' or 'not yet fit' for promotion on the basis of assessment of their record of service. The officers who are categorised as 'fit' should



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be placed in the panel in the order of their seniority in the grade from which promotions are to be made." Para 6.1.4 of the said instructions further provide that "Government also desires to clear the misconception about "Average" performance. While "Average" may not be taken as adverse remark in respect of an officer, at the same time, it cannot be regarded as complimentary to the officer as "Average" performance should be regarded as routine and undistinguished. It is only the performance that is above "Average" and performance that is really noteworthy which should entitle an officer to recognition and suitable rewards in the matter of promotion."

4. According to the respondents, the applicant has been considered by the DPC but on the basis of his record, he has been assessed by the DPCs as "not yet fit." According to them, the record of the applicant is not upto the mark which can entitle him for promotion to the post of Section Officer. In view of these submissions, the OA does not merit and deserves to be dismissed.

5. Heard the learned counsel for the respondents. None is present for the applicant.

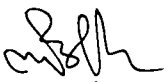
6. From the perusal of the record, it is clear that the applicant has been considered by the departmental promotion committees for promotion to the post of Section Officer but he has not been found fit for promotion as his performance reflected in the ACRs is only "average". As per instructions contained in the DPC guidelines at para 6.1.4., a person who has been graded as "average", is not

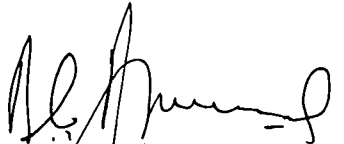


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entitled for promotion. Accordingly, the performance of the applicant ^{being} "average", and he has rightly been categorised as "not yet fit" for promotion.

7. From the aforesaid facts, the applicant has no case. The O.A. is devoid of merit and we accordingly dismiss the same. No costs.


(M.P. Singh)
Member(A)


(Ashok Agarwal)
Chairman

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