

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

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O.A./T.A. No. 1525 of 19 95 Decided on: 14.11.96

D.K. Sharma APPLICANT(S)
(By Shri S.S. Sabharwal Advocate)

VERSUS

UOI & Ors. RESPONDENTS
(By Shri B. Lall Advocate)

CO RAM

THE HON'BLE SHRI S.R. ADIGE, MEMBER (A)

THE HON'BLE ~~SHRI S.R. ADIGE~~/DR. A. VEDAVALLI, MEMBER (J)

1. To be referred to the Reporter or not? Yes
2. Whether to be circulated to other Benches of the Tribunal? NO

S.R. Adige
(S.R. ADIGE)
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL

Principal Bench

O.A. No. 1525 of 1995

New Delhi, dated this the 14th November, 1996

HON'BLE MR. S.R. ADIGE, MEMBER (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri D.K.Sharma,
MD-18, Pitampura,
Delhi-110034.

..... APPLICANT

(By Advocate: Shri S.S.Sabharwal)

VERSUS

1. Union of India through
the Secretary (DP&S),
Ministry of Defence,
New Delhi.
2. The Director,
Technical Dev. & Production (Air),
Ministry of Defence, H Block,
New Delhi.
3. Shri Y.R.Mahajan,
Addl. Director (Director Gr.II),
O.C.R.I. (HAL),
Bangalore.
4. The Secretary,
U.P.S.C.,
Dholpur House,
Shajahan Road,
New Delhi.

..... RESPONDENTS

(By Advocate: Shri B. Lall)

J U D G M E N T

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

The applicant challenges the DPC's recommendations dated 21.2.94 and the orders issued by respondents pursuant to those recommendations by which Shri Y.R.Mahajan has superceded the applicant and has been promoted to the grade of Addl. Director (Director Gr.II) in D.T.D&P (AIR) organisation.

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2. Admittedly the post in question is a selection post and a copy of the statement showing the comparative grading of the applicant and Shri Mahajan based upon the ACRs of the two officers for the period 1989-90 to 1993-94 prepared by respondents and taken on record, shows that Shri Mahajan's record is clearly superior to that of the applicant for the said period.

3. The applicant has taken the grounds that the DPC's impugned decision is against the instructions contained in Ministry of Home Affairs' O.M. dated 31.10.61 in as much as officer who recorded the applicant's ACRs had no reason to see/supervise his work, and the remarks were biased and were not communicated to him. It has been urged that as the remarks were down graded for some of the years by the Reviewing/Accepting Authority, the same should have been communicated to the applicant and as this was not done, the DPC should not have taken those uncommunicated remarks into account, and their doing so warrants our judicial interference. Reliance in this connection has been placed on the Hon'ble Supreme Court's ruling in U.P. Jal Nigam Vs. P.C.Jain & Ors. J.T. 1996 (1) SC 641.

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4. The respondents have in their reply denied that the applicant's ACRs were recorded by an incompetent authority, and the applicant has not produced any material before us to substantiate his assertion that in fact an incompetent authority did record his ACRs. In so far as the down grading of remarks is concerned, from the statement of comparative grading of the applicant and Shri Y.R.Mahajan taken on record, it would appear that in the case of the applicant there has not been any down grading of his ACRs, as such from one year to another. ^{What} has happened is that for the years 1989-90 and 1990-91 the initiating officer rated him as Very Good while the Reviewing Officer and Accepting Authority rated him as Good in each of those years. ~~For the~~ ^{the} subsequent years 1991-92, 1992-93 and 1993-94 the initiating officer, as well as the Reviewing Officer and Accepting Authority have rated the applicant uniformly as Very Good. Similarly in the case of Shri Y.R.Mahajan the initiating officer rated him as outstanding in each of the 5 years 1989-90 to 1993-94. Except for the year 1991-92 when the Reviewing Officer and Accepting Authority also rated him as outstanding, for the other four years the Reviewing Officer as well as the Accepting Authority rated him as Very Good. Under the

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circumstances, the ratio in U.P. Jal Nigam's case (Supra) is no authority for us to intervene judicially in this matter when Shri Mahajan's record for the relevant period was so clearly superior to that of the applicant for this selection post.

5. This O.A. therefore is dismissed.
No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

/GK/

S.R. Adige
(S.R. Adige)
Member (A)