

Central Administrative Tribunal
Principal Bench: New Delhi

18

OA 1775/95

New Delhi this the 8th day of November 1996.

Hon'ble Mrs Lakshmi Swaminathan, Member (J)
Hon'ble Mr S.P.Biswas, Member (A)

G.S.Gupta
S/o Shri J.S.Gupta
R/o MA-121 B, Railway Colony
Agra Cantt. (UP) ...Applicant
(Through Shri S.S.Tiwari, Advocate)

Versus

1. Union of India through
General Manager
Central Railway
Bombay VT
Bombay.
2. Chief Engineer (P&D)
Central Railway
Bombay VT
Bombay ...Respondents

(Through Shri P.S.Mahendru, Advocate)

O R D E R (Oral)

Hon'ble Mrs Lakshmi Swaminathan, Member (J)

This application has been filed by the applicant under Section 19 of the AT Act being aggrieved by the inaction of the respondents in not promoting the applicant to the post of Inspector of Works Gr.I although his junior had been promoted in that grade in November 1994 in the promotion quota. He has also submitted that his representation dated 15.4.94 has not been replied to and hence this OA.

2. The main contention of the applicant is that although he had been chargesheeted by SF5 dated 9.1.92 and that was pending when his junior was promoted in November 1994, nevertheless, he had been exonerated of the charges by order dated 24.11.95. He, therefore, submits that although the chargesheet was pending, the applicant ought to have been

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considered by the DPC in November 1994 alongwith his junior and its recommendations placed in a sealed cover in accordance with the relevant rules. However, from the reply filed by the respondents, it appears that this has not been done. After his exoneration of the charges, the applicant was issued another chargesheet on 10.3.95 received by him on 5.4.95.

3. In the reply filed by the respondents, the respondents have stated that in view of the fact that SF5 chargesheet dated 9.1.92 was pending against the applicant in November 1994, he had not been considered for promotion on that date, although they have admitted that he had been exonerated of the charges on 24.11.95.

4. We have heard both learned counsel and perused the records.

5. It is clear from the above that once the applicant who was chargesheeted on 9.1.92 had been exonerated of the charges on 24.11.95 and admittedly he had not been considered for promotion in November 1994 alongwith his junior, which ought to have been done and the recommendations placed in sealed cover, in accordance with the extant rules/instructions, this application is liable to succeed.

6. In the facts and circumstances of the case, this OA is disposed of with following directions:

Respondents shall consider the claim of the applicant for promotion to the post of IOW Gr.I by holding a review DPC and in case he is found suitable, he shall be entitled to the

18

promotion from the date his junior was so promoted and consequential benefits in accordance with the rules.

No order as to costs.

S.P.Biswas
(S.P.Biswas)
Member (A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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