

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI
OA 2462/1995

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New Delhi this the 28th day of September, 1999

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri S.P. Biswas, Member (A)

L.M. Malhotra,
S/O Late Sh.O.P. Malhotra,
Kothi No. 468,
Mukherjee Nagar,
Delhi-9

..Applicant

(By Advocate Shri S.K. Gupta)

versus

1. Union of India through:-

Secretary,
Department of Revenue,
Ministry of Finance,
North Block, New Delhi.

2. Director General,
Directorate General of Anti Evasion
West Block No.8, Wing No.6,
2nd Floor, R.K.Puram(Sector-I)
New Delhi-66

3. Deputy Director(Admn.),
Directorate General of Anti Evasion
West Block No.8, Wing No.6
2nd Floor, R.K.Puram(Sector-I),
New Delhi.

4. Shri Harinder Bansi
Assistant Director,
C/O Director General, Directorate
General of Anti Evasion,
West Block No.8, Wing No.6,
2nd Floor, R.K.Puram(Sector-I)
New Delhi-66.

..Respondents

(By Advocate Sh.V.S.R. Krishna)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The applicant is aggrieved by the adverse remarks given by Respondent No.4 in his ACR for the year 1994-95 which, according to him, is in violation of the relevant guidelines, which has resulted in denial of promotion to him as Stenographer Grade-II.

2. The brief facts of the case are that the applicant who is a Stenographer Grade-III has been given adverse remarks in his ACR for the year 1994-1995 against which he had filed an appeal

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on 31.10.1995 to the competent authority. According to him the DPC had been held for considering the eligible persons for promotion from Stenographer Grade III to Grade-II followed by the promotion order No.53/95 dated 7/8.8.95. The grievance of the applicant is that his name does not figure in the promotion order. Learned counsel for the applicant has submitted that at the time when on 28.7.1995 the DPC was held, the respondents had not disposed of the applicant's representation against the adverse remarks and according to him the DPC had therefore, considered the ACR with the adverse remarks. Learned counsel submits that in the impugned promotion order, some of the juniors have been promoted while ignoring the applicant which he states is because the DPC had considered his case with adverse remarks before his representation was disposed of. He has also relied on the judgements of the Hon'ble Supreme Court in Gurdial Singh Fijji Vs. State of Punjab and Others(1979(3)SCR 578 and UOI Vs.E.G.Nambudiri(AIR 1991 SC 1216).

3. We have heard both the learned counsel and perused the pleadings.

4. The respondents in their reply have submitted that the adverse remarks given by Respondent 4 is justified. They have also submitted that the representation of the applicant against the adverse remarks had been duly considered by the competent authority while passing its order dated 24.1.1996 (Ann.R.1).

5. From the above facts it appears that while DPC had met to consider the promotion of eligible candidates to the post of Stenographer Grade-II in July, 1995, following which the promotion order dated 7/8.8.95 had been passed, they would have considered the applicant's ACR for 1994-95 with the adverse remarks on / representation. The respondents have themselves stated that the representation of the applicant had been considered and rejected by their letter dated 24.1.1996, that is after the promotion order promoting the other eligible candidates.

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have been considered by the DPC.

6. In view of the above facts application is allowed with a direction to the respondents to convene a review DPC to consider the case of the applicant for promotion from Stenographer Grade-III to Grade-II, subject to fulfilment of other eligible conditions in accordance with the rules/instructions. Review DPC shall not take into account the adverse remarks in applicant's ACR for the year 1994-95 as his representation had not been disposed of on the relevant date. In case the applicant is found suitable for promotion by the DPC, he shall be entitled to all consequential benefits, including payment in the higher post from the date his juniors were promoted in accordance with the Rules/instructions. This exercise shall be completed within a period of two months from the date of receipt of a copy of this order. Parties to bear their own costs.

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

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

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