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~~CENTRAL ADMINISTRATIVE TRIBUNAL~~
~~Principal Bench~~

O. A. No. 1392 of 1996

New Delhi, datedd this the 9th May 1997

Hon'ble Mr. S.R. Adiga, Member (A)

Hon'ble Dr. A. Vedavalli, Member (J)

Shri D.R. Tamta,

S/o Shri J.R. Tamta,

R/o 14, Rajpur Road,

Delhi.

..... APPLICANT

By Advocate: Ms. Maneesha Nigam proxy

counsel for Mrs. Avnish Ahlawat

VERSUS

1. U.O.I. through

the Secretary

Ministry of Home Affairs,

North Block,

New Delhi.

2. The Secretary,

U.P.S.C.,

Dholpur House,

New Delhi-110011.

3. The Chief Secretary,

Govt. of NCT of Delhi,

5, Sharnath Marg,

Delhi.

..... RESPONDENTS

By Advocate: Shri N.S. Mehta ; for R-1

Shri M.M. Sudan for R-2

JUDGMENT

A

Applicant seeks a direction to rewrite/ correctly write his ACRs for the year 1990-91 to reflect the fact that he was awarded the President's Silver Medal and an appreciation letter during the Parliamentary Elections, and to direct the Respondents to hold a review DPC for promotion to JAG of DANICS to consider this fact, and thereafter assign him appropriate seniority with consequential benefits.

Applicant contends that a DPC was constituted on 13.8.93 to consider promotion to JAG of DANICS officers for the years 1990-91/1992-1993. In both those years applicant being eligible, was considered, but as his ACR for 1990-91 was not complete he was not given promotion to JAG in 1991. He claims that on enquiries he learnt that while awarding bench marks, he was adjudged very good and not outstanding for the year 1990-91 which was a mistake, because he was the only officer who had been given the President's Silver Medal for exceptionally good work done by him in the Census Dept., but this fact was neither mentioned in the dossier nor entered in his ACR. He states that the Chief Secretary's instructions specifically contained a direction that special entries be made in the ACRs of concerned officers with regard to their performance in Census Operations 1991, but despite that, neither did his good work in those operations nor his receipt of the President's Silver Medal found mention in his ACRs for 1990-91, nor indeed the appreciation letter for the conduct of the Parliamentary Elections during the same period. He states that on his representation (Annexure C) to Respondent No.1 (Home Ministry) he was informed vide letter dated 14.7.94 (Annexure D) that a proposal had been submitted for reviewing the August, 1993 DPC proceedings, but Respondent No.2 (UPSC) had not agreed, to the same, but no reasons why they had not agreed were given. Later, he states he came to know that without Respondent No.1 making corrections in the ACR and adding the relevant information of award of President's Medal and the appreciation letter in the 1991 ACR, Respondent No.2 (UPSC) could not review the proceedings. He states that on coming to know about this fact in May, 1995 he immediately represented to Respondent

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No.1 to first make amendment in his ACR and then place the same before UPSC for being placed before a review DPC which was being held in July, 1996 to review other cases, but that was not done, compelling him to file this O.A.

3. Respondents No.1 & 2 have filed their replies challenging the O.A. They state that applicant's case was duly considered by the 13.8.93 Selection Committee for appointment to JAG of DANICS. For the year 1990 he did not come within the consideration zone. For 1991, ACRs upto 31.3.91 were taken into account for assessing officers as outstanding; very good; good; average and unfit. Applicant's name appeared at Sl. No.14 in the 1991 eligibility list. On an overall assessment of his service record, applicant was assessed as 'Very Good', while officers at Sl. No.15 and 16 on an overall assessment of their service records were graded as 'outstanding'. The name of these officers were included in the 1991 panel, whereas applicant's name could not be included that year, because of insufficient vacancies.

4. Applicant's name was at Sl. No.9 of the 1992 panel and he on overall assessment was graded very good. Officers at Sl. No.17, 22 and 23 in that panel were graded as 'outstanding' who on that basis were placed at Sl. No.2, 3 & 4 of the 1992 panel while applicant found place at Sl. No.8 of that panel. Respondents contend that as the Census Medal was conferred on applicant on 12.2.93

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this fact could find mention only in the 1992-93 ACR. The Reporting Officer had mentioned applicant's good work during the 1991 Census Operation in applicant's 1992-93 ACRs. For the 1992 panel, only CRs up to 1991-92 were to be taken into account to ensure uniformity and hence the period of 1992-93 was not relevant. It is stated that the UPSC had to rely on the information/materials furnished by the administrative Ministries, the CRs are the basic inputs on the basis of which assessment is made. The Home Ministry's proposal was considered by UPSC and rejected as there were no material facts for calling a review DPC.

5. It is further stated that the proceedings of earlier Selection Committee of April, 1989 and August, 1993 which made recommendation for promotions to JAG of DANICS was again reviewed on 3rd and 4th July, 1996 on account of revision of seniority of a few officers in which cases of all DANICS Officers who were considered earlier, including case of applicant, were again considered by the Committee.

6. We have heard Mrs. Ahlawat for applicant and Shri N.S.Mehta and Shri Sudan for respondents. We have perused the materials on record and given the matter our careful consideration.

7. Admittedly applicant's name finds inclusion in the 1992 promotion list based upon ACRs of eligible officers for the period ending 31.3.92. He now wants a review DPC to consider placing his name in the 1991 promotion list based upon ACRs for the period ending 31.3.91 by writing / rewriting the same to include his good work in (i) the 1991 Parliamentary Elections; (ii) 1991 Census Operation.

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8. In so far as the 1991 Parliamentary Elections are concerned, the photocopy of D.O letter dated 21.5.91 from Shri Bhargava, which is taken on record makes it clear that the Lok Sabha Elections for Delhi were held on 20.5.91, i.e. well after the period ending 31.3.91 and hence the inclusion of this commendation in the applicant's ACR for 1990-91 (ending on 31.3.91) does not arise at all.

9. Coming to the 1991 Census Operations, we note from a perusal of applicant's ACRs that the fact that he had done good work in the 1991 Census Operations was mentioned in his ACR for 1992-93 and there is also a certificate dated 12.2.93 in his ACR Roll about conferment of the President's Silver Medal for 1991 Census Operations. The Selection Committee met on 13.8.93 to consider the case of promotion of officers to JAG of DANICS for the period ending 31.3.91 and 31.3.92 and it is not the applicant's case that knowledge of applicant's good work in the Lok Sabha Elections held on 20.5.91 and the 1991 Census Operations were not before the Selection Committee when it met on that date. Respondents are correct when they state that the Selection Committee has to rely on the information/ materials furnished by the administrative ministries and the ACRs are the basic inputs on the basis of which assessments are made. To uniformity a common cut off date is prescribed for all and no instructions have been shown to us which permit ACRs to be written/ rewritten in the manner sought by applicant such that remarks, recorded in a particular year can be related to another year.

10. Applicant has relied upon OP & Ts' OM dated

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10.4.89 (referred to in his representation dated 20.12.93 at Annexure-C) which provides for a review to be held when there has been a procedural irregularity. No procedural irregularity can be detected in the action taken by the Selection Committee in uniformly fixing the period ending 31.3.91 for the 1991 Promotion List and going strictly by the entries in ACRs at each of those two relevant periods uniformly for all eligible candidates and basing their assessments thereon. Similarly, when all the facts were before the Selection Committee when it met on 13.8.93 it cannot be said that "the OPC has not taken all the facts into consideration or if material facts were not brought to the notice of the OPC" which are the other grounds referred to by applicant in OP & T's OM dated 10.4.89 for summoning of review OPC.

11. Applicants' counsel has cited a number of cases including 1991(3) SLJ 1993; JT 1988 (1) 609; AIR 1988 SC 535; 1990(12) ATC 32; and 1989 (10) ATC 713. We have been through these rulings, but find that in the particular facts and circumstances of this case they do not assist us in giving a direction to respondents of the kind sought by applicant.

12. The OA is therefore dismissed. No costs.

A. Veda Valli
(DR. A. VEDAVALLI)
MEMBER(J)

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