

12

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 2482/1997

New Delhi, this 27th day of July, 1998

Hon'ble Shri T.N. Bhat, Member (J)
Hon'ble Shri S.P. Biswas, Member (A)

Shri R.K. Ajmani
Enforcement Officer
Working on deputation as SO
in Central Vigilance Commission
Bikaner House, 1st Floor
New Delhi

Applicant

(By Shri K.K. Patel, Advocate)

versus

Union of India, through

1. Secretary
Department of Revenue
Ministry of Finance, New Delhi
2. Secretary
Central Vigilance Commission
Bikaner House, Pandara Road
New Delhi
3. Director of Enforcement
Hqrs. Office, New Delhi
4. Deputy Director (Admn.)
Enforcement Directorate
Hqrs. Office, New Delhi

Respondents

(By Advocate Shri Madhav Panickar)

ORDER

Hon'ble Shri S.P. Biswas

Being aggrieved by the inaction of the respondents for not declaring the results of the Departmental Promotion Committee (DPC for short) held on 21.7.97 and 25.7.97 for the post of Chief Enforcement Officer (CEO for short) in the grade of Rs.2000-3500, the applicant is before us seeking the following reliefs:

(a) Call for the records;

(b) Direct the respondents to declare the result of DPC held on 21.7.97 and 25.7.97 for the post of Chief Enforcement Officer in the Directorate of Enforcement; and

(c) Direct the respondents to consider the applicant for the post of Chief Enforcement Officer from the date he is eligible for the post with all consequential benefits.

2. During the pendency of the OA, respondents issued order dated 17.11.97 promoting the applicant herein as CEO with effect from the same date. With the issue of the aforesaid order, applicant's claim for relief at sub-para (b) of para 1 above, gets adequately provided.

3. The only issue that now survives is the applicant's claim to consider his promotion for the abovesaid post against the DPC held in 1988 or atleast in 1994.

4. Applicant claims seniority from 1988 on the basis that the panel of 14 officers of CEO was drawn on 26.12.88 without disclosing the number of vacancies that existed in that calender year and that the zone of consideration was extended violating the norms of DPC. Even against the selection held in April, 1994, the applicant alleges wilful violation of the DPC norms by the respondents in respect of (i) not disclosing the actual and anticipated number of vacancies against promotion quota in that year, (ii) that the respondents have violated the norms laid down by DoPT in respect of the frequency at which the DPC should meet, following objectional procedure for objective assessment of the candidates in the zone of consideration, violating the principles to be

followed for preparation of the panels and ignoring the need for preparation of year-wise panel when DPC did not meet for a number of years. Applicant would further contend that the procedure for filling up the additional vacancies occurring in the same year has also not been adhered to by the respondents.

6. In parenthesis, applicant's main contention now is that he stands illegally superseded by his juniors right from 1988 onwards.

7. Respondents, on the contrary, have resisted the claim. It has been submitted that in the DPC ~~met~~ ^{held} ~~last~~ on 26.12.1988 to consider and approve the promotions of Enforcement Officers/Superintendents against a number of vacancies in the grade of CEO, applicant was one of those figuring in the zone of consideration in 1988. The DPC was constituted to draw a panel of 14 officers including 3 from the reserved categories. Since the post of CEO was a Selection post, the DPC adopted the criteria of merit-cum-seniority which is in consonance with the Rules laid down by the DoPT. Officers were classified on the basis of their confidential reports and graded in the order of their respective merit, i.e. "OUTSTANDING", followed by "VERY GOOD" and again followed by "GOOD". Applicant happened to be one amongst a number of officers who were superseded because of merit only.

SP

8. Reverting back to the DPC of 1994, respondents would submit that the relevant DPC had, after taking into consideration the relevant facts and details, decided to draw a select list of ~~7~~ ^{7 (Seven)} CEOs. The meeting of DPC took place on 11.4.94 and the select list drawn by the DPC got exhausted within a period of 8 months since the last officer was promoted on 21.12.94 on the recommendations of the DPC. Hence the action of the respondents in drawing up a panel of sufficient number of officers to fill in those existing/anticipated vacancies was not only justified but also in terms of the principles laid down on the subject.

9. Heard the rival contentions of counsel for both the parties and perused the records. A close scrutiny of the relevant records/files handed over to us during the course of the arguments revealed that the DPC that ~~7~~ held in December, 1988 adopted the criteria of merit-cum-seniority in selecting a number of officers notified. The minutes of the procedures show that officers were classified on the basis of 5 years Confidential Reports from 1983 to 1987 and for each of the years on the basis of confidential record entries officers were graded as "outstanding", "very good" and "good" and so on. As many as 42 officers were in the zone of consideration against 14 posts and the applicant could not be taken strictly in terms of the merit. A perusal of the records pertaining to the selection of CEOs for ~~7~~ ^{7 (Seven)} posts would show as many as 16 officers were considered and the DPC

decided that a grading of not less than 'good' in the last five reports be treated as a minimum and accordingly those selected were graded. We do not find any infirmity in the selection procedures undertaken by the respondents on both the occasions.

10. That apart, we find that the applicant's claim that his case should get considered against the vacancies of 1988 or 1994 is a belated one. If he had a grievance in 1988 or 1994, he should have agitated the issue well in time. Since he had sent his representation on 14.12.95 against the DPC held in 1994/1995 and has been claiming of year-wise DPC having not taken place, the applicant should have agitated the issue long before.

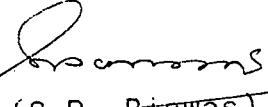
11. We find that there is atleast a delay of four years and six months in approaching the Tribunal to redress the grievance in respect of his promotion. A number of officers might have superseded in the meantime. It is well settled in law that if a person has slept over his right and there is undue delay in approaching the Tribunal, the action deserves to be dismissed on laches alone. We find that if any relief is given to the applicant at this stage, it would adversely affect those persons in whose favour right has accrued and especially so when they have not been joined as party respondents to the OA. The Hon'ble Supreme Court in the case of M.L.Cecil De 'Souza Vs. UOI, AIR 1986 SC 2086 has observed that "It is essential that any one who

(6)

12

feels aggrieved with an administrative decision affecting one's seniority should act with due diligence and promptitude and not sleep over the matter. Raking up old matters like seniority after a long time is likely to result in administrative complications and difficulties".

12. In the light the discussions above, the OA fails on account of merit and limitation as well and is, accordingly, dismissed. There shall be no order as to costs.


(S.P. Biswas)

Member(A)


(T.N. Bhat)

Member(J)

/gtv/