

14

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

R.A. NO. 52/2001

&
M.A. NO. 202/2001

in
O.A. NO. 1407/1997

New Delhi this the 23rd day of March, 2001.

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN

HON'BLE SHRI V.K. MAJOTRA, MEMBER (A)

... Applicant

Prakash Chand

(By Shri R.K. Singh with Shri Y.K. Dullar, Adv.)

-versus-

... Respondents

Union of India & Ors.

(By Shri R.K. Singh for Shri A.K. Chopra, Advocate)

O R D E R (ORAL)

Shri Justice Ashok Agarwal :

Present review application seeks review of an order passed on 23.5.2000 in OA No. 1407/1997. Aforesaid order had been carried by the applicant to the High Court in CW No. 5198/2000 which was disposed of by an order of 11.9.2000 with the following observations :

"The learned counsel for the petitioner seeks leave to withdraw the writ petition with liberty to pursue remedy in an appropriate forum in accordance with law. Leave and liberty is granted. The petition is dismissed as withdrawn."

Applicant has thereafter presented the present review application on 6.11.2000.

2. The learned counsel appearing on behalf of applicant has submitted that certain other candidates

15
who had similarly been imposed a penalty of censure as the applicant herein, have by judgments of certain other Benches, been directed to be promoted. As far as the facts of the present case are concerned, applicant had been considered for promotion by the DPC in July-August, 1994. Since disciplinary proceedings were then pending against him, his result of the DPC had been kept in a sealed cover. Applicant had initially been awarded a major penalty by the disciplinary authority which penalty had been reduced by the appellate authority to one of censure. After the passing of the aforesaid order of censure by the appellate authority, the sealed cover of applicant was opened and it was found that the DPC had graded him as unfit. In the circumstances, we find that denial of promotion in the instant case is not on the ground of penalty of censure imposed upon the applicant in disciplinary proceedings; the same has been as a consequence of the grading given to him by the DPC. It may be that in other cases the result of the DPC of the candidates therein might have similarly been kept in a sealed cover because of the disciplinary proceedings pending against them and those sealed covers might have been opened after the imposition of a penalty of censure, and they might have been graded as fit by the DPC. The promotion in the instant case relates to admission into promotion list-F (Ex.) which is a selection post and it is essentially a function of the DPC to consider the candidates on their comparative merits. The same cannot be an exercise which can be undertaken by the Tribunal. In the

V.F.J.

(16)

circumstances, we do not find that a case is made out for review.

3. Present review application, in the circumstances, is dismissed without any order as to costs. Similarly MA No. 202/2001 is also rejected.

V.K.Majotra

(V.K. Majotra)
Member(A)

Ashok Agarwal
(Ashok Agarwal)
Chairman

/as/