

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

O.A.No.2420/94

New Delhi, this the 29th day of July, 1999

HON'BLE MR.JUSTICE D.N.BARUAH, VICE CHAIRMAN  
HON'BLE MR.N.SAHU, MEMBER (ADMNV)

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Krishna Singh S/o Shri HN Singh  
R/o Gurdwara Santur Murar (Gwalior)  
working as B/R Gde II,  
Headquarters Commander Works Engineer (Air Force)  
Maharajpur, Gwalior

....Applicant

(By Advocate: None)

Versus

1. Union of India through the Secretary,  
Ministry of Defence, South Block,  
New Delhi.

2. The Engineer-in-Chief,  
E-in-C Branch, Army Headquarters,  
New Delhi.

3. The Chief Engineer  
Headquarters Central Command  
Lucknow

4. Commander Works Engineer,  
Maharajpur Air Field  
Gwalior

5. Shri P.L.Chidar, EE  
MES-423077 through  
The Engineer-in-Chief,  
Army Headquarters, E-in-C Branch  
New Delhi

....Respondents

(By Advocate: None)

O R D E R (ORAL)

BY HON'BLE MR.N.SAHU, MEMBER (ADMNV)

The applicant in this O.A. seeks a direction to the respondents to implement the promotion order issued by respondent no.3 on 28.11.91. This case was posted earlier on several dates and none appeared for the parties. Today



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also, none is present for either side. We therefore dispose of this O.A. after consulting the pleadings on record.

2. The applicant seeks relief on the ground that withholding of his promotion is arbitrary. It is admitted that there was a chargesheet pending in his case. Even so he says that withholding of promotion was illegal.

3. The respondents, after notice, filed the counter. They stated that in the year 1990, the applicant was considered by a DPC for promotion from Superintendent Gr.II to Superintendent Gr.I. His name was included in the panel. He was posted at Port Blair by order dated 28.11.91 but was not relieved because there was a disciplinary case pending against him.

4. It appears that the applicant was charged with negligence in the collapse of a hanger at Maharajpur. A charge memo was issued to the applicant on 26.6.91 for <sup>minor penalty</sup> under Rule 16 of CCS (CCA) Rules, 1965. This charge memo was reviewed and because of the seriousness of the lapse, a charge memo for major penalty was issued. The old chargesheet was cancelled on 5.12.91 and his promotion order was treated <sup>to be one</sup> in a sealed cover till the conclusion of the disciplinary proceedings.

5. We have consulted the record. We are of the view that there is no justification on the part of the respondents to withhold the promotion of the applicant. In fact, the DPC considered the applicant and found him fit for promotion. He was promoted by the Chief Engineer, Central

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Command by order dated 28.11.91 and given a posting. Under such circumstances, the respondents cannot withhold the promotion simply because two years later i.e. in 1993, they made up their mind to issue a major chargesheet for penalty. As a matter of procedure, the DPC should have been apprised of whatever was the alleged misdemeanour on the part of the applicant and whatever chargesheet was issued to him and it should have been done before the DPC sat. Since no chargesheet was pending, no disciplinary proceeding was pending and as the DPC cleared his name and he was eventually posted, the subsequent event of issuing a major chargesheet could not come in the way of his promotion. There was no justification to recall the earlier posting order and put it back in a sealed cover. We accordingly allow this O.A. and direct the respondents to give effect to the earlier posting order within a period of two months from the date of receipt of a copy of this order. If the post relating to the earlier posting order should already filled in, the applicant may be considered for a fresh posting wherever there is a vacancy.

The O.A. is disposed of with the above directions.

No costs.



( N.Sahu )  
Member (Admnv)



( D.N. Baruah )  
Vice Chairman (J)

/dinesh/