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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A. NO. 275/94

New Delhi this the 22nd day of December, 1994

HON'BLE SHRI JUSTICE S. C. MATHUR, CHAIRMAN  
HON'BLE SHRI S. R. ADIGE, MEMBER (A)

Shri R. A. Shukla,  
Horticultural Assistant Grade I,  
Office of the Deputy Superintending  
Horticulturist, Archaeological  
Survey of India, Horticultural  
Division II,  
Safdarjung Tomb (Madrasa),  
New Delhi.

... Applicant

( By Advocate Shri V. Ethirajulu )

Versus

Union of India through  
Secretary (Culture),  
Ministry of Human Resources  
Development, Shastri Bhawan,  
New Delhi.

... Respondent

( By Advocate Shri M. L. Verma )

O R D E R (ORAL)

Shri Justice S. C. Mathur --

The applicant, Shri R. A. Shukla, Horticultural Assistant Grade-I in the office of the Deputy Superintending Horticulturist, Archaeological Survey of India, has through the instant application sought a direction to the respondent to give him the benefit of Efficiency Bar (for short, EB) w.e.f. 1.7.1991.

2. The applicant's case is that he fell due to cross the EB between April and July, 1991, but he was not allowed to cross the said EB when it fell due.

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3. The application has been opposed on behalf of the respondent who has asserted that the applicant's case for crossing the EB was considered by a Departmental Promotion Committee (for short, DPC) which did not recommend the crossing of the EB. In the reply filed on behalf of the respondent, the facts have not been given in detail and accordingly, the learned counsel for the respondent was directed to produce the relevant material before us. That relevant material has been produced before us today. From that record we find that for the year 1990-91 the applicant earned the following remarks :-

"I agree with the reporting officer to the extent that he requires constant vigil over the works by higher authority."

"Fair, simple, he is not being found to follow the rules and regulations in accounts etc."

The learned counsel for the respondent has admitted that this adverse entry was not communicated to the applicant.

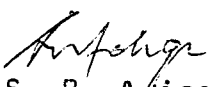
4. Another record produced by the learned counsel for the respondent shows that a DPC met on 25.10.1993 and considered the case of the applicant along with others for crossing the EB. The applicant was not found fit to cross the EB.

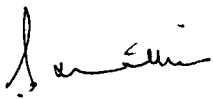
5. In view of the admission made by the learned counsel for the respondent that the adverse entry for the year 1990-91 was not communicated to the applicant, we are of the opinion that the applicant was not afforded opportunity to make representation against the adverse entry. In the circumstances,

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the proceedings of the DPC held on 25.10.1993 so far as they relate to the applicant will be vitiated.

6. In view of the above, the O.A. is allowed to the extent that the respondent shall communicate the adverse remarks given to the applicant which are proposed to be taken into consideration by the DPC, giving the applicant opportunity to represent against the said remarks. If on a consideration of the applicant's representation the remarks are expunged, a fresh DPC shall meet to consider the applicant's case for crossing the EB. This shall be done within four months from the date of communication of this order. There shall be no order as to costs.

  
( S. R. Adige )  
Member (A)

  
( S. C. Mathur )  
Chairman

/as/