

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH NEW DELHI

O.A. No. 311/1994

New Delhi, dated the 8th December, 1994

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CORAM

Hon'ble Shri N.V. Krishnan, Vice Chairman (-)  
Hon'ble Smt. Lakshmi Swaminathan, Member (Judicial)

Shri LaxmiChand Verma  
c/o Shri Sant Lal Advocate,  
C-21/B, New Multan Nagar, Delhi-56

... Applicant

(By advocate Shri Sant Lal )

v/s

1. Union of India, through the Secy.  
Ministry of Communications, Deptt. of Posts,  
Dak Bhawan, New Delhi-1
2. The Chief Post Master General, Delhi Circle,  
Meghdoot Bhawan, New Delhi-1
3. The Senior Superintending Air Mail Sorting  
Division, New Delhi-110021.

... Respondents

(By advocate Shri M.K. Gupta )

ORDER (CRAL)

(Hon'ble Shri N.V. Krishnan, Vice Chairman (-))

The applicant is aggrieved by the fact that in pursuance of the Biennial Cadre Review (B.C.R.) he has not been given promotion to the next higher scale of pay w.e.f. 1-10-1991. Instead, this has been given to him w.e.f. 1.7.1992. The applicant states that the

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scheme itself was made applicable w.e.f. 1-10-1991.

The case of other persons who were considered by the Ann.A.1 order dated 17-2-1992, but the applicants' name was placed in part-IV of that order in which it is stated that he has not been recommended by the D.P.C. It is stated that minor penalty was imposed as a result of inspection on 2-5-1991 and therefore, punishment of stoppage of one increment for 3 months, without cumulative effect, was imposed on him by the memo dated 31.10.1991. In appeal, the Appellate Authority modified the punishment to one of censure, by the order dated 27-3-1992 (Ann-A-6). Thereafter, he was cleared for the higher scale by the next D.P.C. w.e.f. 1-7-1992. The applicant sent representation on 10-12-1992 in which he had prayed that he should be allowed higher pay scale from 1.10.1991, particularly because of the fact that giving him this benefit from 1-7-1992 adversely affects his pensionary benefits. This was followed by reminders on 3-2-1993 and 21-9-1993 (Ann.A-8) and (Ann-A-9). Those have been rejected by the Ann-A-2 (dated 8-7-1993) and Ann.A.3 (dated 24-12-1993).

2. Learned counsel for the applicant prays that in view of the fact that penalty has been reduced to

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censure and censure does not stand in the way of promotion, the Department should have constituted a Review D.P.C. to consider the applicant's case for getting the benefit of higher scale w.e.f. 1.10.1991.

3. Respondents have filed reply denying that any relief is due to the applicant. It is stated that the first DPC had found the applicant unfit for giving higher scale on merit. The representation of the applicant in the matter has already been considered and also rejected.

4. The learned counsel for the respondents has drawn our attention to the Ann-A-1 order and points out that Part-V of that order relates to officers not given the higher pay scale due to currency of in (not to applicant) punishment. One official was included in this post. He, therefore, contends that the D.P.C. was not influenced merely by the punishment order, which was current, but on merits, it did not find the applicant suitable for being given the higher scale.

5. On our directions, the learned counsel for the respondents produced the proceedings of the D.P.C. on the basis of which the Ann.A.1 order was issued. In so far as applicant is concerned we notice that one

of 5 CRs (one relating to 1988-89) was not available. In the last year, 1991 there is a mention that his punishment is current. In the remarks column it was added that he was not recommended. A perusal of this proceeding shows that where only one out of 5 CRs is missing but others are tick marked, signifying that they are satisfactory, they have been recommended for higher pay scale e.g. sl.No.32

Pramod Sharma, whose CR for the year 1988-89 was missing. We also notice that where punishment

~~if~~ only censure was imposed in one year and the other CRs are satisfactory, the case has been recommended, e.g. Sl.No.17 Gopi Chand Vallecha.

We also observe that where the punishment has already been suffered in one year and the 4 CRs are

satisfactory the case has been recommended e.g.

Sl.No.57, 27. Therefore, we are satisfied that what appears to have influenced the DPC is that

the applicant was undergoing punishment at the time

DPC considered the matter. The applicant's name ought

to have, perhaps, been included in part-V of the Ann-I

order but, apparently, by mistake, this was not done.

and his name was included in Part IV.

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As the punishment has been reduced to censure the claim of the applicant that his case should be considered by the Review D.P.C. appears to be reasonable.

6. Learned counsel for the respondents, however, states that this matter has already been considered by the Chief Post Master General himself. We are of the view that this is not sufficient. In the case of others, similarly situated, the D.P.C applied its mind and recommended the name for promotion where the punishment was only censure.

7. In the circumstances, we are of the view that after the penalty was reduced to or censure, it is necessary to have the case re-examined by a review D.P.C. We, therefore, direct the respondent No.2 to constitute a Review D.P.C. which should re-consider the case of the applicant in the light of the observations made, as well as the orders passed by the disciplinary authority and appellate authority, within three months from the date of receipt of this order. If any relief is

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granted to the applicant the benefits thereof  
should be given, both in regard to arrears of pay  
and refixation of pension. Orders of the  
respondents regarding the decision taken by them  
on the basis of the Review D.P.C. shall be  
communicated to the applicant immediately  
after they are taken and if they are in his  
favour the financial benefits shall be given  
within two months thereafter.

Lakshmi Swaminathan

(Lakshmi Swaminathan)

Member (J)

N.V. Krishnan  
8/1/81

(N.V. Krishnan )

Vice Chairman (-)

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