

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.1707/2000

Hon'ble Shri M.P.Singh, Member(Admn.)
Hon'ble Shri Shanker Raju, Member (Judicial)

New Delhi, this the 24th day of August, 2001

Ct. Netralpal Singh
s/o late Sh. Lakhmi Singh
r/o H.No.21-A, G-2 Block
Chahal Estate, Main Road
Ratia Marg, Sangam Vihar
Delhi. Applicant

(By Advocate: Shri Ravi Kant Jain, proxy of Shri
Arun Bhardwaj)

Vs.

1. Union of India through
its Secretary
Ministry of Home Affairs
North Block
New Delhi.
2. The Commissioner of Police
Police Headquarters
M.S.O.Building
I.P.Estate
New Delhi.
3. The Additional Commissioner of Police
(Establishment)
Police Headquarters
M.S.O.Building
I.P.Estate
New Delhi. Respondents

(By Advocate: Shri R.V.Singh, proxy of Shri
R.K.Chopra)

O R D E R(Oral)

By Shanker Raju, Member (J):

The applicant, in the present OA, has assailed an order passed on 14.6.2000 whereby his request for treating the 'Outstanding' grading in his ACR as category 'A' for awarding two marks each for the purpose of promotion list 'A' has been rejected.

2. The applicant had appeared for the promotion list 'A' in August, 1999 but was not declared selected. The applicant was deputed to

Ministry of External Affairs from January, 1991 to December, 1996, the ACRs for that period were recorded by the concerned authorities and the ACRs pertaining from September, 1994 to May, 1996 'Excellent' remarks have been recorded by 1st Secretary, Ministry of External Affairs and for the period September, 1994 to December, 1996 by 2nd Secretary has observed him 'Outstanding' and it was also reviewed by the Ambassador, Embassy of India, Bahrain.

(2)

3. The applicant's grievance is that awarding him full marks for the ACRs for the relevant period has been treated as 'B'/Satisfactory and has been awarded lesser marks with the result the applicant has not qualified for the promotion list 'A' and was not sent for lower school training course. The applicant contends that as per the marking system contained in Rule 12 of the Delhi Police (Promotion and Confirmation) Rules, 1980, there are maximum 15 marks allotted for ACR for the last 5 years and for 'Excellent and Outstanding' ACRs 3 marks are accorded whereas for the 'Verygood' and 'Good' ACRs 2 marks are given. In this conspectus, it is stated that as he has been observed as 'Excellent' he should have been accorded 3 marks as per the criteria laid down by the respondents and had these marks been added to his ACRs he would be qualified for being sent to lower school training course. It is also stated that as the respondents have down graded his ACR recorded by the competent authority without according him an opportunity which is violation of principle of natural justice and infringes the law laid down by Apex Court in U.P.Zal Nigam & Others Vs. Prabhat Chandra Jain &

Others, 1996(33) ATC 217. It is also stated that representation of the applicant has been rejected by non-speaking order.

(B)

4. Strongly rebutting the contentions of the applicant, the learned counsel for the respondents stated that as per the Standing Order 91/89, the maximum 15 marks are allotted for ACRs and the applicant has remained on deputation from 1991 to 1996 and resumed duties on 7.3.1997. The merit for general candidates have been fixed at 165.46 marks and the applicant was short of eligibility by 0.45 marks. It is also stated that on the request of the applicant to consider his ACR pertaining to August, 1994 to December, 1996 the matter was examined and it was found that the ACRs for the period 21.6.1994 to 31.3.1995 and 1.4.1995 to 31.5.1996 have already found and recorded by the 1st Secretary but the recording officer has neither categorised the said ACRs nor quoted any grading as such the ACRs have been treated as 'B' and accordingly marks have been allotted to the applicant. It is also stated that 2nd Secretary after the repatriation of the applicant has recorded another ACR for the same period from August, 1994 to December, 1996 grading him as an 'Outstanding' which is contrary to Government of India's OM dated 20.5.1972 wherein it is stated that ACR should be recorded annually and as the 2nd Secretary has recorded ACR for the period of more than two years at a time and once the ACR already recorded by 1st Secretary, the applicant was rightly accorded two marks for each year treating the period as Satisfactory. It is also stated that as per the Government of India's guide-lines, Departmental

Promotion Committee is free to adopt or frame its own criteria for evaluation of ACRs and once it is found that the ACRs were made in different gradings and the period is overlapping is found, larger period grading will be awarded to shorter period and marks will be accorded accordingly. As the ACRs for the period 21.6.1994 to 31.3.1995 and 1.4.1995 to 31.5.1996 has been written initially by the 1st Secretary and considered 'Verygood' the DPC has rightly awarded two marks to him.

(A)

5. We have carefully considered the rival contentions of the parties and perused the material available on record. Admittedly the applicant was on deputation and the ACR recorded by the 1st Secretary and thereafter by 2nd Secretary contains identical entires as from the perusal of the record the same has been found correct. The remarks were 'Excellent' and were also reviewed by the Ambassador, the action of the respondents in case of overlapping ACR to down grade the same and treated as 'Verygood' as 'B' category in absence of the grading given, is not legally sustainable. The remarks entered in the ACR indicates the performance of the applicant either 'Excellent' or 'Outstanding' in which he has been down graded by the DPC without according him an opportunity which is against the dictum laid down in U.P.Zal Nigam & Others Vs. Prabhat Chandra Jain and Others, 1996(33) ATC 217. The applicant having attained the 'Excellent' remarks, cannot be treated as 'Verygood' and as such as per the norms laid down under Standing Order No.91 under Rule 12 of the Delhi Police Rules ibid, the applicant was entitled for three marks for

his 'Excellent/Outstanding' performance as reported by the Reporting Officer and Reviewing Authority under whose administrative control he has worked during his deputation. In this view of the matter, we are satisfied that the DPC has not acted legally by taking into consideration by treating the ACRs of the applicant as 'Verygood' which should have been treated as 'Outstanding' category 'A'. (5)

6. Having regard to the reasons recorded above, we allow this OA and direct the respondents to hold a review DPC to consider by giving grading 'A' for the 'Excellent/Outstanding' ACRs pertaining to the year 1994-1996 and accordingly accord two more marks each for the ACRs and thereafter in case the applicant figures in the eligibility criteria, he would be admitted to promotion list 'A' and thereafter he be considered for deputation to lower training school as well as the promotion to the rank of Head Constable and shall be entitled for all consequential benefits. The above directions shall be complied with within two months from the date of receipt of a copy of this order. No costs.

S. Raju
(SHANKER RAJU)
MEMBER(J)


(M.P. SINGH)
MEMBER(A)

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