

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 1423/1989. DATE OF DECISION: 9-8-1991.

K.S. Lal Applicant.

v/s.

Union of India & Others Respondents.

CORAM: Hon'ble Mr. G. Sreedharan Nair, Vice Chairman (J).
Hon'ble Mr. S. Gurusankaran, Member (A).

Shri B.S. Mainee, counsel for the applicant.
Shri O.N. Moolri, counsel for the respondents.

G. SREEDHARAN NAIR:

JUDGMENT

The applicant, a Carriage & Wagon Superintendent, in the highest grade of Group 'C' has assailed in this application the selection for appointment to Class II post of Assistant Mechanical Engineer. It is alleged that though his name was not included in the regular list of candidates called for the selection, his name was in the reserve list and he was actually called for the written examination and his name was included at Serial No.11 among the successful candidates. It is further alleged that he was called for the *viva-voce* test. His grievance is that though the selection was initiated to fill up 15 posts and actually there were 15 vacancies, the panel that was prepared as a result of the selection, contained only 10 names and that his name was conspicuous by ~~his~~ absence. It is stated that a representation was submitted by him to the Chief Mechanical Engineer, but it was of no avail. According to the applicant, as he was promoted as Carriage & Wagon Superintendent with effect from 12-3-1988, there could not have been any adverse entries in his Confidential Report for the year 1987-88. He prays for issue of a direction to the respondents to assess his candidature without taking into consideration any adverse remarks which have not been communicated to him. A direction is also prayed for to be issued to the respondents to place the name of the applicant on the panel in accordance with his performance in the selection and also based on his seniority.

2. In the reply filed by the respondents, it is stated that the name of the applicant was not included in the panel since he failed to qualify in the selection. It is pointed out that while ^{for} promotion to the post of Carriage & Wagon Superintendent, Section II of the Confidential Report has no relevance, in the matter of promotion to Class II service, the same is also taken into consideration. It is stated that according to the assessment, the applicant was not successful and hence the relief prayed for cannot be allowed.

3. The concerned file relating to the selection was made available by counsel of the respondents. The Annual Confidential Reports of the applicant during the five years period 1983-1988 were also produced by him. From the proceedings, it is seen that the assessment of the applicant was made not only with respect to Section I of the ACR but also with specific reference to Section II which contains the assessment regarding fitness for promotion. It is seen that for the assessment relating to the years 1983-84, 1984-85 and 1985-86, it has been recorded that the applicant is not fit for promotion to Class II service. It was only during the period 1986-87 and 1987-88, it has been recorded that he is fit in his turn. Though the applicant came out successful in the written test and was called for the viva-voce as well, when the grading was made taking into account both the Sections of the Confidential Reports, he was not successful as is clear from the proceedings relating to the selection. So much so, there is no foundation in the grievance of the applicant.

4. It was submitted by the counsel of the applicant that even if there are entries in the Confidential Reports against the applicant with respect to his fitness for promotion, they should not have been acted upon since they have not been communicated. There is no merit in this submission ^{since} the entry in Section II of the Confidential Report with respect to fitness for promotion to Class II service, though it may be against the employee, does not require to be communicated to him in the same manner as is done in the case of entries relating to his

performance, integrity etc. made in Section I.

5. The application is dismissed.

S. Gurusankaran
(S. GURUSANKARAN)
Member (A)

S. Sreedharan
(S. SREEDHARAN NAIR)
Vice Chairman (J)

9-8-1991.