

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No.995 of 1988. Date of Decision: 13-10-93

K.C.Verma.....Applicant.

Versus

Union of India & othersRespondents.

CORAM:

Hon'ble Mr.C.J.Roy, Member(J)

Hon'ble Mr. S.R.Adige, Member(A)

For the applicant: Ms.Mary Oomen, proxy counsel for
Shri B.B.Raval, learned counsel.

For the respondents:Ms.Pratima Mittal, proxy counsel
for Shri K.C.Mittal, Senior Stand-
-ing Counsel.

JUDGMENT

(By Hon'ble Mr.S.R.Adige, Member(A).)

This application was heard on 8.10.93.

On that date, Ms.Mary Oomen, proxy counsel for
Shri B.B.Raval, learned counsel for the applicant
stated before the Tribunal that Shri Raval had
instructed her to state that the Bench may decide
this matter on the basis of the materials available
on record. On behalf of the respondents, Ms.Pratima
Mittal, proxy counsel for the learned Counsel Shri
K.C.Mittal was heard. On that date, while reserving
orders, the respondents were directed to produce
the ACR of the applicant as well as the DPC
proceedings of the department. However, till date,
the above records have not been produced for our
perusal. Under the circumstances, this matter
is being disposed of on the basis of the materials
available on record.

2. The applicant Shri K.C.Verma is aggrieved
by the order dated 29.7.87 (Annexure-C) reverting him
from the post of Officiating Assistant Central
Intelligence Officer, Grade II(W/T), Intelligence
Bureau to his substantive post, Junior Intelligence
Officer, Grade I(W/T) after officiating ^{on} the higher

post since May, 1980. He denies that there was any departmental enquiry against him when the DPC was held in 1982 to consider his case for regularisation as ACIO Gr.II (W/T) and apprehends that the then CIO, Nagpur might have spoiled his ACR for 1980-81 or 1981-82 (upto December, 1982) due to his personal enmity. The applicant has said that the personal enmity is proved by the fact that while he was away from Nagpur on official duty in May, 1981, the said CIO transferred the applicant and treated him relieved w.e.f. 30.5.81 in absentia. Upon the applicant returning from official tour on 3.6.81, he was handed over the above order against which he represented requesting him to stay relief till 12.6.81 but the same was rejected and the applicant was treated as relieved w.e.f. 3.6.81 on transfer to Aizwal. On the applicant's request for posting him at Delhi instead of Aizwal, his transfer to Aizwal was deferred. While posted at Aizwal the applicant faced serious health problems and had to remain on medical leave for about ten months and subsequently leave without pay for about another 1½ years. Again on account of serious law and order problems at Delhi following ^{the} brutal assassination of Smt. Indira Gandhi, the applicant was forced to be on leave from March, 1985 to December, 1985. The applicant admits that the respondents proceeded against him departmentally in 1985, as a result of which two annual increments were stopped but subsequently the punishment was reduced to stoppage of only one increment vide order dated 16.12.87. Meanwhile, the applicant was reverted on the DPC's recommendations dated 30th June, 1987. He has stated that he had submitted numerous representations but to no avail, and hence he was compelled to file

this application.

3. From the counter-affidavit filed by the respondents and the arguments advanced by Ms. Pratima Mittal, it appears that the DPC was held in 1982 to consider the promotion of JIO's Grade I (W/T) to the rank of ACIO-II (W/T) and regularisation of adhoc ACIO-II (W/T). The applicant's case for regularisation of his service as ACIO-II (W/T) was also considered by the DPC, but as his case was not cleared from the vigilance angle, the DPC's recommendations in his case were kept in a sealed cover. He was, however, assessed by the DPC as 'Not yet fit' for promotion. He remained absent from duties for about three years from December, 1981 to August, 1984. A DPC was held again in 1985, but this DPC could not consider the applicant's case as his ACR folder was incomplete because he remained absent for more than three years. After regularisation of his absence for the said period, he remained absent from duties from February, 1985 to December, 1985 which was later on regularised by granting him extra ordinary leave. A departmental enquiry was concluded by imposing a minor penalty of withholding of increments for a period of two years which were subsequently reduced to withholding of an increment for a period of one year. The applicant's promotion was again considered by a subsequent DPC held in 1987 and on the basis of his record of service, he was found 'not yet fit' for promotion to the rank of ACIO-II (WT). Thereupon, he was reverted to his substantive post JIO-I (WT) on 30.7.87. The allegation that the then CIO, Nagpur had spoiled his ACRs for the year 1980-81 and 1981-82 has been

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vehemently denied. It has been stated that the applicant's reversion was based on poor performance, lack of discipline and improper conduct in the Security Organisation. It is stated that the applicant was in the habit of refusing to accept the official communications, and ignoring his responsibilities and had been defying official orders in the discharge of his duties.

4. In view of the facts and circumstances of the case, we have no reason to doubt that properly constituted DPC's did consider the applicant's case for regularisation as ACIO-II(WT) from time to time, but did not find him fit to be promoted to that post and, therefore, his adhoc promotion was withdrawn and he was reverted to his substantive post JIO Grade-I(WT). An adhoc promotion gives no right to a person to hold a post, and if after proper consideration of that person's case by a regular constituted DPC, the said DPC concludes that the person is not fit for promotion and recommends that the said person be reverted to his substantive post, it warrants no interference by this Tribunal.

5. In the result, we hold that there are no good grounds for us to interfere in this matter and accordingly this application is dismissed.

6. No costs.

S.R. Adige
(S.R. ADIGE)
Member(A)

for you
(C.J. ROY)
MEMBER(J)

18/10/93

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