

1988

Shri C.L. Verma

Applicant
~~Petitioner~~

Applicant in person.

~~XXXXXXXXXX~~
Advocate for the Petitioner(s)

Versus

Union of India & another

Respondents

Shri S. N. Sikka,

Advocate for the Respondent(s)

The Hon'ble Mr. Justice K. Madhava Reddy, Chairman

The Hon'ble Mr. Kaushal Kumar, Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether to be circulated to all the Benches ? *No*

(KAUSHAL KUMAR)
MEMBER

(K. MADHAVA REDDY)
CHAIRMAN

1.8.88

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH:
NEW DELHI.

REGN. NO. CA 1114/88

Date of decision: 1.8.1988

Shri C.L.Verma

.....

Applicant

Vs.

Union of India & another

Respondents

CORAM: Hon'ble Mr. Justice K. Madhava Reddy, Chairman
Hon'ble Mr. Kaushal Kumar, Member

For the Applicant

.... Applicant in person.

For the Respondents

.... Shri S.N.Sikka, Counsel.

(Judgement of the Bench delivered by Hon'ble Mr.
Justice K. Madhava Reddy, Chairman)

This application under Section 19 of the
Administrative Tribunals Act, 1985 is by an Assistant
Engineer(SLP) of the Northern Railway against the
Union of India through its General Manager and
Chief Engineer, Northern Railway, Baroda House
New Delhi(Respondents herein) " to complete the
disciplinary proceedings in case of the charge-
sheet Annexure A-1 within 150 days positively
and not to deny^{to}/the applicant the right of being
considered for due promotion till then. Any
other relief deemed just may also be awarded
to the applicant."

2. The charge-sheet Annexure A-1 dated
24.4.1988 was served on the applicant on 16.5.88.
The disciplinary proceedings will, therefore, be
deemed to have commenced on the date when the
charge-sheet was served on the applicant. The
relief claimed by the applicant in this application
is very innocuous one. As per the administrative
instructions, which the applicant has extracted



in para 6.6 of his application, the disciplinary proceedings have to be finalised within 150 days and he prays for a direction of the Tribunal to that effect. Under the administrative instructions it is also recognised that it should be generally possible for the Railway Administration to finalise the disciplinary proceedings within the revised target of 150 days and even if in some cases it is not possible, steps should be taken by the concerned authorities to minimise the period for completion of the disciplinary proceedings. Therefore, there shall be a direction to the Respondents to complete the disciplinary proceedings initiated in Annexure A-1 on or before 17.10.1988.

3. The applicant further prays that the Respondents be directed not to deny him the right of being considered for promotion due to him. When the disciplinary proceedings are pending there are instructions not to ignore the claim of the charged officer. There are instructions to adopt the "sealed cover procedure" in such a situation. Under that procedure even a person against whom disciplinary proceedings are pending should be considered for promotion and his merit assessed and the result of the assessment should be kept in a sealed cover which is to be opened at the appropriate time. The further instructions governing sealed cover procedure lay down as to what should be done if disciplinary proceedings prolong for more than two years. These instructions direct as under:-

" In case the appointing authority comes to a

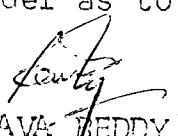


conclusion that it would not be against the public interest to allow ad-hoc promotion to the official, his case should be placed before the next D.P.C. held in the normal course after the expiry of the two year period to decide whether the officer is suitable for promotion on ad-hoc basis. When the officer is considered for ad-hoc promotion as above, the Departmental Promotion Committee should make assessment on the basis of the totality of the officer's record of service and the fact that the disciplinary or court case is pending should not affect the assessment regarding the suitability for ad-hoc promotion. If the officer is recommended by the D.P.C. as a result of such consideration, for ad-hoc promotion, his actual promotion will be subject to the decision of the Appointing Authority which should take into account the seriousness of the charges, the nature of the evidence available, the stage which the disciplinary/court proceedings has reached, the probable nature of the punishment that may be imposed on the officer if charges against him are established, the likelihood of misuse of official position which the officer may occupy after his ad-hoc promotion and the record of service available upto date."

4. The Tribunal, therefore, direct the Respondents not to ignore the claim of the applicant for promotion. They shall adopt the sealed cover procedure and also consider him for ad-hoc promotion on his own merit.

5. This application is allowed to the extent indicated above. There shall be no order as to costs.


(KAUSHAL KUMAR)
MEMBER


(K. MADHAVA REDDY)
CHAIRMAN

1.8.1988