

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/01829/2014

Dated the 02nd day of June Two Thousand Twenty

**CORAM : HON'BLE MR. P. MADHAVAN, Member (J)
HON'BLE MR. T. JACOB, Member (A)**

C.Hamza,
Financial Advisor and Chief Accounts Officer/T,
Southern Railway, MMC Complex, 7th Floor,
Park Town, Chennai 600003.Applicant

By Advocate M/s. Ratio Legis

Vs

Union of India rep by,
The Secretary,
Ministry of Railways, Railway Board,
Rail Bhavan, New Delhi 110001.Respondent

By Advocate Dr. D. Simon

ORDER

(Pronounced by Hon'ble Mr. P. Madhavan, Member(J))

This is an OA filed seeking following relief:

"To direct the respondent, the Secretary, Ministry of Railways, Railway Board, New Delhi to include the name of the applicant in the panel for promotion to HAG of IRAS cadre – Annexure A-1, page-6, and thus render justice."

2. The applicant is working as Financial Advisor and Chief Accounts Officer Southern Railway, Chennai. He belongs to 1982 batch of IRAS and joined the service in 1984. He got promotions to the SAG level. But when he went through the website of the Southern Railway, he found that his name was excluded and name of 12 of his juniors were included in the list empanelled for HAG(List anexure A1). He immediately gave a representation on 5-9-14(A2&A9) requesting him to be included in the panel. But no action is taken on it by respondents. Hence he is seeking a direction to the respondents to include his name in the panel for promotion to HAG cadre.

3. According to the applicant, he had very good record of service and no adverse remarks were noted in his confidential reports. Hence denial of promotion is arbitrary. The non-communication of adverse-entries if any is illegal and violation of Art.14 of the Constitution. He seeks inclusion of his name in the panel for 2014-15.

4. The respondents filed a reply as follows. They admit his present

posting in SAG scale. According to them, all procedure for promotions to administrative grades as per Ministry of Railways letter dt. 03-06-02 is complied with. The contention of the applicant that he is now the senior most SAG officer is not correct. According to them, the applicant had lost his seniority when his name was not empanelled for the SAG in 2002. The Departmental Promotion Committee found that his performance was not suitable and hence he was not empanelled. Thereafter, the applicant was considered for empanelment in the year 2004, 2005, 2006 and 2007. But he was found not suitable for promotion to SAG cadre. Accordingly, applicant had lost seniority with 1983 to 1986 batches. In the year 2008, the committee found him fit and he was granted SAG as per order dt. 13-03-2008. Now the applicant's case can be considered only with the 1987 batch. The promotions of 1987 batch are not yet empanelled for HAG scale. The applicant has retired from service in the meanwhile on 30-06-2016. That is much before his turn for being considered for promotion.

5. We had heard both the counsels. The main contention put forward by the counsel for the applicant is that no adverse-entries were communicated to him, and the respondents are not entitled to look into such confidential reports for taking a decision. He has also cited the decision of the Hon'ble Apex Court in **Dev Dutt V Union of India and others** (reported in AIR

2008 SC 2513) dt 12-05-2008 where in it was held that non-communication of ACR of a public servant is violative of Art.14 of the Constitution.

6. The counsel for the respondents would content that the respondents had communicated all the ACR and only after the same, the DPC will consider the case for promotion. He produced copies of the minutes of the DPC meeting wherein it is clearly mentioned that all the "Adverse-remarks" were communicated. Further, the counsel also invited our attention to the fact that the applicant was also earlier overlooked by the DPC in many years for promotion to the SAG grade. This is not the first time wherein applicant was not included in the panel. It is submitted that applicant has lost his seniority with his own 1982 batch, then 1983, 1984, 1985, and 1986 batches and now his name can be considered along with 1987 batch for HAG promotion. It was submitted that the promotion of 1987 batch to HAG scale has not come up so far and the applicant has retired in the meanwhile on 30-06-2016.

7. We have heard both sides and on a perusal of the copy of minutes of the DPC, we are of the opinion that there is no merit in the contentions raised by the applicant herein. There is no cause of action at this stage. The applicant has only a right to be considered for promotion. It seems that

vacancies for the year 2015-2016 are not considered by DPC so far.

**8. As there is no merit in the contentions raised by the applicant,
OA will stand dismissed. No costs.**

**(T.Jacob)
Member(A)**

**(P. Madhavan)
Member(J)**

02.06.2020

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