

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 411/86 198
T.A. No.

DATE OF DECISION 31.12.1986

Shri Jagdish Chander Gupta, Petitioner

Shri Sant Lal, Advocate for the Petitioner(s)

Versus

Union of India & Others Respondent

Smt. Raj Kumari Chopra, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. S. P. Mukerji, Administrative Member

The Hon'ble Mr. H. P. Bagchi, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether the judgement is to be circulated to other Benches?

JUDGEMENT

Shri Jagdish Chander Gupta, Sorting Assistant in the Office of the Superintendent (Stg.), Delhi R.M.S. of the Posts & Telegraphs Department, on 26.5.1986 moved the application under

Section 19 of the Administrative Tribunals Act, 1985, praying that the impugned punishment in the Appellate Order should be set aside and he should be promoted to the grade of Rs.425-640 with effect from 30.11.1983 under the time-bound promotion scheme with all consequential benefits, including arrears of pay and allowances. The brief facts of the case are as follows: The applicant has been working as Sorting Assistant since 1960. On 10.12.1983, he was awarded the penalty of stoppage of one increment for a period of three months without future effect. His appeal was rejected as time-barred on 20.12.1984. No decision could be given on his revision application. In the meantime, the disciplinary authority reviewed its own order and reduced the penalty to censure on 24.5.1985. According to the petitioner, time-bound promotion of P & T staff was introduced from 13.11.1983 by which the staff who had completed 16 years of service, would be placed in the next higher grade. As such, the petitioner was entitled to the lower selection grade with effect from 13.11.1983 but while several officials junior to him were given this grade with effect from 13.11.1983, he had not been so promoted. On his representation, it was indicated that the recommendations of the D.P.C. have been kept in a sealed cover for review by the next D.P.C. He was informed on 13.12.1984 and again on 25.3.1986 that he had not been considered fit for being promoted to the scale of Rs.425-640.

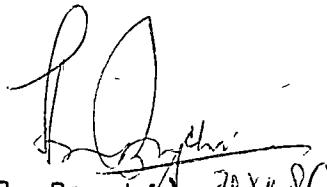
2. In accordance with the respondents, the petitioner was warned in 1968 and severely warned in 1969 and censured twice in 1970 and again in 1977. His increment was stopped for six months on 19.2.1979 for carelessness but ^{The penalty} it was later converted into censure. He was again censured in 1981. Lastly, his increment was stopped for three months in March, 1984 but as he had reached the maximum of the pay-scale and the punishment could not be operated, the disciplinary authority revised the order in May, 1985 to that of a censure. On modification of the penalty, the revision application was returned to him on 10.6.1985 after which the applicant never submitted any representation against the penalty of censure.

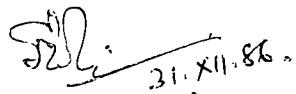
3. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. Since the respondents have stated that they have not received any representation after his representations against the earlier punishment of withholding of increment had been returned, we feel that in the interest of justice, the applicant should be given one last opportunity to appeal against the order of censure. He may do so within a period of one month and the respondents should dispose of the appeal within a period of one month from the date

The petitioner is at liberty to move the Tribunal thereafter if he remains aggrieved.
As regards promotion to the lower/grade, it was revealed during the course of the arguments that the D.P.C. of 1984 met on 3.3.1984, whereas the punishment order of withholding of increment was passed on 26.3.84.

Since the disciplinary proceedings were still going on, the D.P.C. rightly kept their recommendations in the sealed cover. The sealed cover has since been opened and the learned counsel for the respondents stated at the Bar that the D.P.C. did not find the petitioner fit for promotion. The punishment was reduced to that of censure on 24.5.1985 whereas the next D.P.C. met on 29.11.1984 and found him not suitable for promotion. This D.P.C. can, therefore, be deemed to have taken an undeserved view of the petitioner's suitability because of the punishment of withholding of increments which was reduced to censure after the second D.P.C. met. But the third D.P.C. met on 16.1.1986 after the punishment of stoppage of increment had been reduced to that of censure. Even then the third D.P.C. did not find the petitioner suitable for promotion. The fourth D.P.C. has met on 9.9.1986 but their recommendations are still under consideration. It will, thus be seen that the DPCs which met before the punishment of stoppage of increment was ordered and after which was reduced to that of censure, have consistently been of the view that the petitioner was not fit for promotion. The Tribunal cannot question the merits of the judgement of the DPCs as there is no reason to believe that the DPCs after DPCs were prejudiced against the petitioner. They had assessed his suitability on the basis of his performance as reflected in the service records and the collective judgement of the Committee over the years has to be honoured.

4. In the facts and circumstances indicated above, we allow the petition partly to the extent of allowing the petitioner the last opportunity of appealing against the order of censure within a period of one month and directing the respondents to consider the appeal on merits and pass a speaking order within a month of its receipt from the petitioner. The petitioner's request for promotion to the grade of Rs.425-640 with effect from 30.11.1983 is rejected. There will be no order as to costs.


(H.P. Bagchi) 30 XII 86
Judicial Member


(S.P. Mukerji) 30 XII 86
Administrative Member