

11  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

OA NO.1250/87

DATE OF DECISION: 28.1.92.

SHRI D.S. KANWAR

...APPLICANT

VERSUS

UNION OF INDIA & OTHERS

...RESPONDENTS

CORAM:

HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

HON'BLE MR. J.P. SHARMA, MEMBER (J)

FOR THE APPLICANT

SHRI E.X. JOSEPH, COUNSEL

FOR THE RESPONDENTS

SHRI N.S. MEHTA, SENIOR COUNSEL.

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE MR. I.K. RASGOTRA, MEMBER (A))

Heard the learned counsel for both the parties.

The case of the applicant is that he was due promotion to Grade-I post of the Central Secretariat Service (CSS), i.e, to the rank of the Under Secretary, after having rendered 8 years' regular approved service in accordance with Rule 12 of CSS Rules, 1962. He was considered for selection in 1984, 1985 and 1986 but was not promoted to grade I of the CSS. When the case had come up for hearing on 16.1.1992 we had ordered the learned senior standing counsel for the respondents to produce the relevant record regarding the selection for the relevant years alongwith the confidential dossier in respect of the applicant to enable us to peruse the record, if so required. The learned senior standing counsel Shri N.S. Mehta produced the record of the Departmental Promotion Committee (DPC), relating to the years 1984, 1985 and 1986. The applicant was graded as 'Very Good' in 1984 and 1985 by the DPC. He, however, could not be promoted as according to the senior standing counsel he did not come within the number of vacancies available for promotion during those years. It also transpired in the hearing that the applicant was undergoing a penalty

2

of reduction of pay by two stages for two years imposed on 3.4.1984 which expired on 2.4.1986. Thus even if he had been within the number of available vacancies in 1984 and 1985 he could not have been promoted under the extant rules.

The learned senior counsel for the respondents referred us to the reliefs prayed for by the applicant and stated that the reliefs 'A' and 'B' at page 9 of the application relate to quashing of orders promoting certain officers on adhoc basis and submitted that such reliefs cannot be claimed nor can they be granted. Regarding relief at 'C' the learned counsel also submitted that the prayer is in regard to the quashing and setting aside the select list for 1986. If this relief is granted this will create hardship to the other officers who have already been promoted on the basis of the DPC of the relevant years. At best, if the case of the applicant merits, a review DPC with respect to the applicant alone can be considered by the Tribunal. As far as reliefs 'D' and 'E' are concerned, these will depend on the merits of the case and a view would have to be taken by the Tribunal.

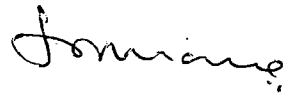
We have considered the respective submissions of the learned counsel for both the parties and considered the DPC proceedings and perused the confidential reports on the applicant for the relevant period ending 31.12.1985, which would be the last ACR taken into consideration by the DPC held in 1986. We observe that the grading given by the DPC is for the cumulative period for which the applicant has been graded. Year-wise grading has not been recorded. However, considering the fact that for the years 1984 and 1985 the applicant has been graded 'Very Good', we are of the view that the grading accorded to the applicant for the year 1986 does not accurately reflect the content of the remarks of the


2

13

reporting and the accepting officer given to the applicant. We are, therefore, of the view that a review DPC should be held to reconsider the case of the applicant, particularly keeping in view the remarks recorded in the report for the year 1986 on him. We order accordingly. If the applicant after being reconsidered by the <sup>review</sup> DPC meets the requirement for promotion to the grade I of the CSS, he shall be promoted w.e.f. the date his immediate junior was promoted on the basis of the DPC of 1986. He shall also be in that case entitled to restoration of his seniority from the date he was due promotion in accordance with the recommendations of the review DPC and for progression in the scale of pay of Grade-I officer of CSS from that date. We further direct that the respondents shall hold the review DPC and take a decision in the matter as expeditiously as possible but not later than 8 weeks from the date of communication of this order.

There will be no order as to costs..

  
(J.P. SHARMA)  
MEMBER(J)

  
(I.K. RASGOTHA)  
MEMBER(A)

28/1/1992

January 28, 1992.