

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

OA No. 1804/87 .. Date of decision: 20-5-1993

Sh. Dev Dutt Basson .. Applicant

Versus

Engineer-in-Chief, Army  
Headquarters, New Delhi. .. Respondents.

CORAM

Hon`ble Sh. A.B. Gorthi, Member (A).

Hon`ble Sh. C.J. Roy, Member (J)

For the applicant .. Sh. S.C.Gupta with Sh. M.K.Gupta,  
Counsel.

For the respondents .. Sh. P.P. Khurana, Counsel.

J U D G E M E N T

(Delivered by Hon`ble Sh. A.B. Gorthi, Member (A))

Based on a panel published on 12.11.82, the applicant was promoted as Superintendent (B/R) Grade-I with effect from 20.05.85. The life of the panel was extended periodically upto 31.12.87 but vide the impugned order dated 28.09.87, the names of the applicant and some others were deleted from the panel on the ground that they were not selected by the Departmental Promotion Committee. Aggrieved by the said order, the applicant has filed this application praying that the impugned order be set aside and that he be declared as having been regularly promoted on the basis of the panel published on 12.11.82, with all consequential benefits including seniority.

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2. The applicant was directly appointed as Superintendent (B/R) Grade-II in the Military Engineering Service (MES) on 14.05.64. He fell ill in October, 1979 and remained on sick leave till March, 1984. He rejoined duty on 7.3.84 and his absence was duly regularised by granting extraordinary leave without pay and allowances vide order dated 27.08.84. During his absence on sick leave, the respondents published two panels of promotion to the post of Superintendent (B/R) Grade -I. In the second panel dated 12.11.82, the applicant's name figured at Sl. No.65. The applicant could not get the benefit of promotion on the basis of the said panel because of his absence on account of sickness.

3. On 22.04.85, the respondents published a panel of regular promotees to Grade-I, but the name of the applicant was not included in it. He did not represent against the same because he was promoted as Superintendent (B/R) Grade-I with effect from 20.05.85 vide Part II order dated 20.05.85. The said order was to the effect that the applicant was promoted to Grade-I and that he would be on probation of two years. Subsequently, the respondents published some more panels of promotion to Grade-I on regular basis but the applicant's name was not included in any of them. On his representation, he was informed that he was found to be "in sufficient" by the D.P.C. and hence, he was not selected for regular promotion to Grade-I. The contention of the applicant is that his

initial promotion to Grade-I on 20.05.85 was on a regular basis and therefore, the respondents were not justified in refusing to grant him promotion on a regular basis from that date.

4. The respondents, in their counter affidavit, have asserted that the initial promotion of the applicant as Superintendent (B/R) Grade-I w.e.f. 20.05.85 was purely on adhoc basis. Panels were prepared in 1982 for the purpose of granting adhoc promotion. The applicant's name figured in one such panel, but at the time of publication of the said panel, the applicant was not physically present due to sickness. Later on, when he reported for duty, he was given promotion on adhoc basis w.e.f. 20.05.85. His name was considered by the Departmental Promotion Committee which met between 1985 and 1987 and on each occasion, he was found unfit for promotion. The life of the panel for adhoc promotion was extended from time to time till it expired on 31.12.87, as it would be clear from the impugned order dated 28.09.87. Consequently, the applicant's name was directed to be deleted from it.

5. The main question that requires to be resolved in this case is that whether the initial appointment of the applicant as Superintendent (B/R) Grade-I w.e.f. 20.05.85 was purely adhoc or on a regular basis. The learned counsel for the applicant strenuously contended that as the relevant Part II order dated 20.05.85 granting promotion to the applicant stated that he would be on probation for two years, such promotion ought to be viewed as regular promotion. Clarifying this aspect, the respondents have stated that it was a

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clerical error and was subsequently rectified by an amendment dated 21.04.86 which clarified that the promotion of the applicant was only on adhoc basis. In any case, we find it difficult to accept the contentions of the applicant's counsel because in the application itself it was stated that "he was put on the panel of adhoc promotees issued on 12.11.82". Moreover, the panels were published, admittedly, vide order No. 41200/Adhoc/82/EIR dated 11.11.82 and No. 41200/ Adhoc (ii)/82/ EIR dated 12.11.82. The very description of the said panels would thus, make it very clear that they pertained only to adhoc promotions. The respondents have categorically stated that the applicant was not selected for regular promotion by any of the DPCs held between 1985 and 1987.

6. In the light of the aforesaid facts, it is apparent that firstly, the applicant's initial promotion on 20.05.85 was purely on adhoc basis and that in the subsequent DPCs held between 1985 and 1987, he was not graded fit for promotion. We have been shown the relevant records of the DPC proceedings which graded the applicant as 'unfit' for promotion.

7. We are, therefore, unable to hold that the order dated 28.09.87 deleting the name of the applicant from the panel of adhoc promotions is in any way irregular. The applicant cannot be deemed to have been promoted on a regular

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basis on the strength of the inclusion of his name in the panel published on 12.11.82. For these reasons, we find that the application is without merit. The same is dismissed without passing any order as to costs.

*[Signature]*  
(C.J. Roy) 20/5/93

Member (J)

*[Signature]*  
(A.B. Gorthi)

Member (A)

20/5/93