

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA No. 1860/87

.. Date of decision: 11.05.93

Sh. A.B. Mukherjee

.. Applicant

versus

Union of India

.. Respondents

For the applicant

.. Sh. Umesh Misra, Counsel.

For the respondents

.. Sh. P.P. Khurana, Counsel.

## CORAM

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

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

1. Whether Reporters of local papers may be allowed  
to see the judgement?

2. To be referred to the Reporters or not ?

## JUDGEMENT (Oral).

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

The applicant joined service with the respondents on 24.02.64 as Junior Master and on 04.05.1970 he was promoted to the post of Senior Master. The designation of the said post was subsequently changed as Training Officer. The next higher post is Assistant Director of Training in the pay scale of Rs. 2200-4000. The applicant, in his Confidential Report for the year 1985 was given certain adverse remarks and a communication of the same was made to him on 27.05.86.

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Immediately, thereafter, on 20.06.1986, he submitted a representation for expunging the adverse remarks. There was, however, no response from the respondents. Vide the impugned order dated 30.03.87 several of his colleagues including some of his juniors were promoted to the post of Assistant Director of Training but the applicant was denied the same. Aggrieved by the impugned order, he has now prayed that he be promoted with retrospective effect from the date on which his junior Smt. Vimla Sachdeva was promoted.

2. The respondents in their counter affidavit, while admitting the essential facts of the case, have stated that the representation of the applicant against the adverse remarks in his Confidential Report was under consideration with the concerned authorities. The applicant was considered for promotion to the post of Assistant Director of Training along with other Training Officers who were within the zone of consideration by the DPC. The DPC, however, did not recommend his name for promotion to the post of Assistant Director of Training. The respondents admit the fact that Smt. Vimla Sachdeva is junior to the applicant. From the counter affidavit filed by the respondents, it is, however, not very clear as to whether or not the adverse remarks in the Confidential Report of the applicant for the year 1985 stood expunged before his case was put up before the D.P.C. The counter affidavit does not also categorically bring out as to when the representation of the applicant against the adverse remarks was decided.

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3. We have heard the learned counsel for the parties. Sh. Umesh Misra, learned counsel for the applicant assailed the impugned order mainly on the ground that the case of the applicant should not have been considered by the D.P.C. when his representation against the adverse remarks was pending with the concerned authorities. Admittedly, the adverse remarks were subsequently expunged under the orders of the competent authority. We are also informed that the applicant has since been selected and promoted to the post of Assistant Director of Training in 1991. Keeping in view the aforesaid facts, it is apparent that if the DPC had considered the case of the applicant by examining the adverse remarks in his Confidential Report for the year 1985, when a representation against the adverse remarks was pending, it would certainly have resulted in injustice to the applicant more so, when the adverse remarks were subsequently expunged as being not justified. It will therefore, be proper that the case of the applicant is subjected to a review D.P.C. which should consider his case for promotion vis-a-vis his colleagues who became eligible for promotion and were infact promoted vide impugned order dated 30.03.87. In doing so, the DPC shall not take into consideration the adverse remarks which have subsequently been expunged. In case the applicant is found suitable for promotion by the Review DPC, he will be deemed to have been promoted in accordance with the grading which he would secure at the DPC and in accordance with the extant rules/instructions and would be eligible for consequential reliefs. The respondents are directed to hold a review DPC within a period of 3 months from the date of communication of this order.

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4. The application is allowed in the above terms and  
there shall be no order as to costs.

*ur Roy*  
(C.J. Roy)

Member (J)

*A.B. Gorti*  
(A.B. Gorti)

Member (A)

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