

(13)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A.No.1878/87

Date of decision: 16.2.1993

Shri J.P. Sharma

.. Applicant

Vs.

Union of India & Ors. .. Respondents

CONSTITUTION

The Hon'ble Justice Mr. S.P.Mukerji, Vice-Chairman

The Member Mr. C.J. Roy, Member (J)

For the Applicant

.. Shri G.K. Aggarwal

For the Respondents

.. None

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

(2) To be referred to the Reporter or not?

J U D G E M E N T

(Delivered by Hon'ble Mr. S.P.Mukerji, Vice Chairman)

We have heard the learned counsel for the applicant today. In this application, the applicant has prayed that the order dated 18.9.87 (Annexure H) in so far as it does not include his name for promotion as Assistant Engineer be set aside and that the respondents ^{be} ~~are~~ directed to consider the applicant's case for such promotion. This case has been pending in the Tribunal for more than 5 years. Today when the case was called for a number of times, the learned counsel for the respondent did not appear despite information. Accordingly we are constrained to hear this case ex-parte. ~~Kbx~~

2. The learned counsel for the applicant Shri G.K. Aggarwal ^{fairly} ~~clearly~~ stated that 396 vacancies in the grade of Assistant Engineer materialised simultaneously on the basis of a cadre review.

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Accordingly, the promotion of as many ~~as~~ Junior Engineers as Assistant Engineers in one ~~batch~~ batch can not be technically be faulted. He, however, argued that by taking up promotion of such a large number of junior engineers, ~~from~~ the zone of consideration, ^{has been enlarged and} the degree of competition has been unduly enlarged much to the detriment of the applicant, ~~but~~ On the basis of his seniority he would have been promoted as Assistant Engineer if the zone of consideration had not been so much enlarged. He also argues that in such a situation, the promotion could have been made on the basis of seniority especially when the cadre review is taken up to remove the stagnation. Though the argument of the learned counsel is impressive, in view of the recruitment rules and recruitment procedure, it can not be accepted.

3. The learned counsel for the applicant further argues that in accordance with the instructions, the respondents should have communicated the annual entry from his Confidential Report when they found his performance and grading have fallen ~~down~~. Generally, ^{only} ~~in principle~~, the adverse remarks have to be communicated. It is for the superior officers to informally or otherwise apprise ~~of~~ the officer in case he finds that his performance ^{though not adverse has} ~~is~~ deteriorated. There are instructions also, ^{to this effect} ~~as~~ pointed out by the learned counsel for the applicant. Be that as it may, we feel that non-observance of these instructions, which are more in the nature of guidelines than mandatory, would not vitiate the validity of the annual remarks on the basis of which the application was considered for promotion.

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4. In the above light, we do not see any force in the application and dismiss the same without any orders as to costs.

W. J. Roy
(C.J. Roy)
Member(J)
16.2.93

S. P. Mukerji
16.2.93
(S.P. Mukerji)
Vice Chairman
16.2.93