

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

Regn. No. DA 194/87

Date of decision: 14.08.1992.

Shri O.P. Aggarwal

...Applicant

Versus

Union of India & Others

...Respondents

Coram:-

The Hon'ble Mr. I.K. Rasgotra, Administrative Member
The Hon'ble Mr. J.P. Sharma, Judicial Member

For the Applicant : Shri B.B. Srivastava, Counsel.

For the Respondents : Shri K.N.R. Pillai, Counsel.

Judgement(Oral)

(Hon'ble Mr. I.K. Rasgotra, Administrative Member)

Heard the learned counsel for both the parties.

2. The case of the applicant is that he was promoted vide order dated 4.3.1985 as I.O.W. in the grade of Rs.840- 1040 against the newly sanctioned post vide order dated 2.1.1985. This order, however, was not given effect to, as there were some adverse entries in the ACRs on him for the years 1982-83, 1983-84, 1984-85. These adverse entries were not communicated to him. On his representation that these entries should not be taken into consideration, as they had not been communicated to him, the promotion earlier ordered was given effect to vide order dated 18.3.1985. Subsequently, vide order dated 6.4.1988 he was promoted in the grade of Rs.840-1040(Rs.2375-3500) w.e.f. 1.1.1984 against one of the upgraded posts which became available consequent to the restructuring of cadres. Thus, this grievance of the applicant stands already removed. The grievance, which is now pressed is that the respondents have not empanelled him for promotion to Class-II against one of the 1986 vacancies. He has, therefore, prayed that ^{the respondents} / should be directed to empanel ^{him} / against the 38 vacancies for that year and allowed

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the consequential benefits. The main ground for seeking this relief after the adverse entries were communicated to him in 1985 is that his representations against the adverse entries in the ACRs remained pending with the respondents, till the communication of the rejection of his representation vide communication dated 20.3.1987 received by him under letter dated 30.3.1987 and, therefore, these adverse reports cannot be considered by the DPC. The respondents had held written examination for selection to Class-II post on 22.11.1986. The result for the said written test was declared on 13.1.1987. The applicant was declared successful and called for viva voce, which was held on 3.2.1987, wherein the applicant's name was conspicuous by its absence. His contention, therefore, is that the applicant could not have been denied a place in the Select List if the adverse entries for the years, mentioned above, had not been taken into consideration by the DPC, as no decision on his representation against the adverse entries in the ACRs was communicated to him till 30.3.1987.

3. Learned counsel for the respondents, Shri K.N.R. Pillai, however, produced the relevant record dealing with the disposal of the applicant's representations against the adverse entries in the ACRs and the selection proceedings. According to the learned counsel for the respondents the decision on the representation of the petitioner against the adverse entries for the year 1982-83 was communicated by the respondents to the applicant on 6.2.1986. This fact is accepted by the applicant. However, no decision was conveyed to him on the adverse entries for 1983-84, 1984-85 till 30.3.1987. The record of the respondents shows that

decision in regard to the adverse entries in the ACRs was taken by the Chief Engineer on 17.2.1986 for the year 1983-84 and on the adverse entries for 1984-85 on 14.3.1986. The said decision, however, was communicated to the applicant vide letter dated 20.3.1987, which reached him on 30.3.1987. The learned counsel for the respondents relying on the judgement of the Supreme Court in Union of India & Ors. Vs. E.G. Nambudiri JT 1991 (2) SC 285 submitted that "it is always open to the competent authority to place the reasons before the Court which may ^{have} led to the rejection of the representation." Before coming to any conclusion in this regard, we observe that this O.A. was filed by the applicant on 17.2.1987, whereas the notification, publishing the Select List was issued on 19.2.1987. The said notification has not been challenged by the applicant in the Original Application. Taking into consideration all the circumstances, as referred to above, we are of the opinion that this case does not merit our interference, first because there is no challenge to the Select List of Class-II officers which is the cause of present grievance of the applicant in the O.A. and secondly on merits, as the decision on his representation against the adverse entries had been made well before the DPC met and the files/decisions of the competent authority were available to the DPC. Procedural delay in communicating the decisions already taken by the competent authority, in our view, does not vitiate the proceedings of the DPC.

4. In view of the above, the O.A. is dismissed. No costs.

J.P. Sharma
(J.P. Sharma)
Member(J)

I.K. Raghotra
(I.K. Raghotra)
Member(A)

August 14, 1992.