

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A. No.485/87. Date of decision: September 8, 1992.

Shri K.S. Kumaresan Petitioner.

vs.

Union of India & ANR. Respondents.

CORAM:

HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.

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

For the petitioner ... In person.

For the respondents ... Shri M.L. Verma, counse

JUDGMENT (ORAL)

There are two grievances of the petitioner in this case. One is against the adverse remarks in his Annual Confidential Report for the year 1985 which have been communicated to him as per Annexure A-1 dated 6.2.1986. The other is in regard to non-consideration of his case for promotion, on ad hoc basis, to the cadre of Grade 'C' Stenographer.

2. So far as the complaint about the adverse entries in the Annual Confidential Report for the year 1985 is concerned, the petitioner had made a representation which came to be rejected as per Annexure A-10 dated 4.3.1986. Against that rejection he had filed a further representation to the Secretary, Deptt. of Agriculture & Cooperation as per Annexure A-8 dated 31.3.1986. As the same was not disposed of within a

reasonable period, the petitioner has approached this Tribunal for relief. After this contention was heard for some time, we asked the petitioner, who argued his case in person, as to whether he would prefer a decision on merits by us or a direction to the Secretary, Department of Agriculture & Co-operation to consider his representation Annexure A-8 and to dispose it of on merits within a reasonable period. The petitioner submitted that he would prefer a direction to the Secretary, Department of Agriculture & Cooperation to dispose of his representation on merits by a considered order. As this is a reasonable request, we consider it proper to accede to the request of the petitioner.

3. So far as the grievance of the petitioner regarding his promotion is concerned, it is not disputed that the petitioner's juniors have been promoted on ad hoc basis. The reason given for not considering the case of the petitioner, firstly, is that he had been transferred to another department. But then it has to be pointed out that the petitioner had not lost his lien in the parent department and he continued to remain in the same cadre. Another reason for non-consideration for promotion is that disciplinary proceedings were contemplated against him. It is now well settled that consideration for promotion cannot be denied until the chargesheet is actually served on the delinquent official. As it is the case of only contemplated disciplinary proceedings, the authorities were not justified in not considering the case of the petitioner on the ground of contemplated

disciplinary proceedings. Hence, a direction for considering the case of the petitioner for promotion as ad hoc Grade 'C' Stenographer as his juniors were given has to be issued.

4. For the reasons stated above, this petition is disposed of with the following directions:-

(i) The first respondent, the Secretary, Department of Agriculture & Co-operation shall dispose of the representation of the petitioner, Annexure A-8 dated 31.3.1986 within a period of four months by a considered order and communicate the same to the petitioner.

(ii) The respondents shall consider the case of the petitioner for promotion on ad hoc basis as Stenographer Grade 'C' as on the date on which his juniors were promoted as per Annexure-A.11 dated 10.4.1985. If on consideration of his case, he is found fit and suitable for promotion, he shall be accorded the same benefits as were accorded to his juniors including consequential benefits. The monetary benefits shall be restricted for the period during which his next junior continued on ad hoc basis.

5. The above directions shall be carried out within four months from the date of receipt of a copy of this judgment. No costs.

Shankar
(I.K.RASGOTRA)
MEMBER (A)

Malimath
(V.S.MALIMATH)
CHAIRMAN