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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

O.A. NO. 2621/90

New Delhi this the 29th day of March, 1995

Hon'ble Shri N.V. Krishnan, Vice Chairman(A).

Hon'ble Dr. A. Vedavalli, Member(J).

Shri K.N. Sharma,  
S/o Shri L.R. Sharma,  
R/o 117, Defence Estate, Gwalior Road,  
AGRA (UP).

...Applicant.

By Advocate Shri O.P. Sood.

Versus

1. Union of India through  
Director General EME,  
EME Directorate, DHQ PO,  
New Delhi.
2. OIC EME Records,  
Secunderabad(AP).
3. Commandant,  
509 Army Base Workshop EME,  
Agra(UP).
4. Shri Jai Narain Maurya,  
Ticket No. 3382 Ex. Telecom Mechanic,  
C/o Commandant,  
509 Army Base Workshop,  
Agra (UP).
5. Shri Joginder Singh,  
Ticket No. 2489 Ex Telecom Mechanic,  
C/o Commandant,  
505 Army Base Workshop,  
Delhi Cantt-10.
6. Shri Radha Kishan Singhal,  
Ex. T.No. 3393 Telecom Mech,  
C/o Commandant,  
509 Army Base Workshop,  
Agra. ... Respondents.

By Advocate Shri M.K. Gupta.

ORDER (ORAL)

Hon'ble Shri N.V. Krishnan, Vice Chairman(A).

The applicant, an employee under the Respondent No. 3, The Commandant, 509 Army Base Workshop EME, Agra, has filed this application being aggrieved by the fact that he was not selected to the post of Senior Chargeman.

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A panel was prepared by the DPC in July-Aug, 1990 which did not include his name. The panel prepared is at Annexure A-1 which also is the order giving promotions and postings. Hence, he has sought a direction to quash this panel and issue a direction to the respondents to consider the promotion of the applicant with all consequential benefits.

2. The respondents have filed a reply contending that the applicant was considered for promotion by the DPC and as he did not make the grade, he was not granted promotion and his name was not included in the panel.

3. The matter came for final hearing when it was contended, as is made clear from para 4(j) of the O.A., that the Respondent No. 2 intentionally and deliberately manipulated and ignored the name of the applicant from consideration in order to favour Respondents No. 4 to 6. This averment has been specifically denied by the respondents who have stated that the applicant did not make the grade for promotion to the post of Senior Chargeman and hence, the question of his promotion or absorption did not arise. They have also denied the allegations made in this para.

7. In view of the submissions, we were of the view that as the applicant had already been considered by the DPC and as the applicant had not made any allegation of malafide against the DPC, there was nothing left except to dismiss the application. However, the learned counsel for the applicant reiterated his contention that the applicant's case has not been considered at all. He, therefore, requested that the records be summoned. We have summoned the records, ~~only~~ on the condition that in case we found that the DPC had considered the applicant's case, costs would be awarded to the respondents.

8. The records have been produced. It is seen that the proceedings of the DPC were forwarded to the competent authority on 7.8.1990 with the enclosures mentioned therein. The proceedings indicate the dates on which the DPC met and the particulars of the members who attended the meeting. The Appendix 'G' to the DPC proceedings gives the gradation list of the Tradesmen who had passed the supervisory test for promotion to the post of Senior Chargemen. The applicant's name is mentioned at Serial No. 4 thereon and he has been declared unfit for promotion. The respondents have produced for our information the register in which the assessment of the DPC in respect of various persons has been shown. The applicant's name also finds place in this register. It is seen that the assessment is in respect of various characteristics, such as educational qualifications, output and quality of work, aptitude for supervision, maintainability for discipline, punctuality and integrity. The applicant has been adjudged as unfit in this register. The learned counsel then raised a question that the ACR has not been seen by the DPC. We directed the learned counsel for the respondents to produce documents connected with the DPC to show what records were placed before the DPC for such an evaluation and more particularly whether the ACRs were placed before the DPC. The learned counsel submits that no document as such exists to show that the ACR was, in fact, submitted to the DPC. But he states that the assessment is based entirely on the remarks made in the ACR. The ACR of the applicant has also been produced for our perusal.

9. The ACRs have been seen. It contains a conventional report in three parts, namely, particulars of the official in Part 'A', assessment of the Reporting Officer in Part 'B' and remarks of the Reviewing Officer in Part 'C' for 1994. In addition, there is an assessment report for the tradesmen to be filled in certain cases which have also been filled in the case of the applicant, for the years 1987 to 1993.

10. We have considered the question whether the ACRs have been placed before the DPC for the assessment. Merely because of the fact that there is no background note indicating what documents have been placed before the DPC, we cannot come to the conclusion that the ACRs were not placed before the DPC. The respondents have maintained a regular register for assessment by the DPC in respect of the characteristics mentioned above. That obviously can be prepared only from the ACRs.

11. The learned counsel for the applicant contends that what has been produced before us is not the ACR. We are not in a position to accept this contention. We have already stated in para 9 what was produced. To our mind, this is the ACR of the applicant as stated by the learned counsel for the respondents.

12. In the circumstance, we find that the applicant's case has been considered by the DPC and as he did not make the grade, he was not promoted to the post of Senior Chargeman. The learned counsel for the applicant states that the applicant has not even been informed about the adverse remarks, if any, and that we should look into ACRs to find out whether the grading is adverse on the ground that incriminated adverse remarks have found place in his ACR. We are of the view that it is not our duty to look into this matter at this stage. The thrust of the applicant's case was that the applicant's case was not considered. This has been disproved and we are satisfied that such is not a case.

13. In the circumstance, the application is dismissed. Cost of Rs.500/- (Rupees five hundred only) is awarded to the respondents which the applicant will pay to the third respondent within two months from the date of receipt of this order and on receipt thereof the third respondent shall credit it to Government account.

A. Vedavalli  
(DR. A. VEDAVALLI)  
MEMBER(J)

N.V. Krishnan  
(N.V. KRISHNAN)  
VICE CHAIRMAN(A)

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