

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
PRINCIPAL BENCH, NEW DELHI.

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(A) Date of Decision : 11.8.94.

OA 370/90

B.K. Guru,  
Assistant Director (Statistics),  
Monopolies and Restrictive  
Trade Practices Commission,  
Travancore House, K.G. Marg,  
New Delhi

... APPLICANT.

v/s.

1. Union of India,  
Through Ministry of Industry,  
Udyog Bhavan,  
New Delhi.
2. The Secretary,  
Department of Company Affairs,  
5th Floor, Shastri Bhavan,  
Dr. Rajendra Prasad Road,  
New Delhi.
3. The Under Secretary,  
Department of Company Affairs,  
5th Floor, Shastri Bhavan,  
Dr. Rajendra Prasad Road,  
New Delhi.
4. The Secretary,  
Union Public Service Commission,  
Shahjahan Road,  
New Delhi.
5. Shri A.K. Viswanathan,  
Investigating Officer,  
Department of Company Affairs,  
5th Floor, Shastri Bhavan,  
Dr. Rajendra Prasad Road,  
New Delhi.

... RESPONDENTS.

CORAM:

HON'BLE MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.  
HON'BLE MR. B.K. SINGH, MEMBER (A).

For the Applicant

... SH. N. RANGANATHAN  
SWAMY.

For the Respondents

... SH. N.S. MEHTA.

PER HON'BLE MR. JUSTICE D.L. MEHTA, VICE CHAIRMAN.

Applicant was not selected for the post of Grade-I  
Officer and the respondent No.5 was selected. The applicant  
has challenged the selection of the respondent No.5 on two

5  
grounds. One is that there is a reservation and the applicant should have been selected for that post. As far as this ground is concerned, we are not inclined to accept this argument. Respondent No.5 also comes from the same category of persons. As such, there cannot be a reservation amongst Investigating Officers. The next ground is that the applicant has performed the duties of Research Officer (Class-I) in Statistical Service on adhoc basis continuously for a period of about 7 years from 12.12.75 to 8.12.82 and he was reverted back as soon as regular appointment was made. His further submission is that he has acted for a period of 7 years as Class-I Officer. As such, the mode of writing his Annual Confidential Report should be totally different from the mode of writing which is adopted in the case of the person who is holding substantively the post or temporarily the post of the cadre on which he is having appointment. He has argued with vehemence that a person who performs the duty of a higher post, naturally he will perform the duty very well and he should be given a higher grade in comparision to the person who is performing equally the good work of a lower post. He has referred the judgement in the case of S.S. Shambhu & Ors. v/s. UOI & Ors., reported at 1992 (1) (CAT) SLJ 225. The Tribunal has held in such cases that ACR as 'Good' should be taken as 'Very Good' and if 'Very Good' then it should be taken as 'Outstanding'. If this principle is accepted then the average officer becomes a good officer.

2. Taking note of the judgement, referred above, we direct the respondents to call the review DPC considering the case of the applicant in the light of the judgement referred above and should fix him in the grade to which he is entitled according to the decision of this Tribunal. If he finds better gradation or equal gradation qua respondent No.5 then he shall also be entitled for promotion on the

(b)

post from the date respondent No.5 was promoted. Respondent No.5 has already retired. As such, no order is necessary in the matter of respondent No.5. The applicant, if selected, will also be entitled for all consequential benefits.

3. The OA stands disposed of accordingly with no order as to costs.

( B.K. SINGH )  
MEMBER (A)

D.L. MEHTA  
VICE CHAIRMAN