

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGN.NO. OA 1613/91

Dated: 17th JANUARY, 1992.

Shri Jaidev Mallick Applicants
Vs.
Union of India & anr. Respondents

CORAM: THE HON'BLE MR. D.K.CHAKRAVORTY, MEMBER(A)
THE HON'BLE MR. T.S.OBEROI, MEMBER(J)

For the Applicant Shri P.P.Khurana,
Counsel.
For the Respondents Shri R.S.Aggarwal,
Counsel.

ORDERS ON INTERIM RELIEF

We have heard the learned counsel for both
sides on interim relief.

2. The applicant has prayed for issue of a
direction to the respondents to open the sealed
cover wherein the recommendations of the review
DPC held in 1990 to review the minutes of the
DPC held in September 1987 in regard to the suitability
of the applicant for grant of selection grade have
been kept and in case he has been found fit by the
DPC to give effect to the same and grant selection
grade to the applicant forthwith.

3. The learned counsel for the applicant stated
that the applicant had already been granted selection
grade in the old scale with effect from 1.9.86
and he was to be granted selection grade with
effect from 1.1.86 in the revised scale recommended
by the Fourth Pay Commission. The respondents had
held a review DPC in June 1990 to review the findings
of the DPC held in 1986. The purpose of the review

Seen

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DPC was to see whether the officer considered by the earlier DPC could be given non-functional *selection* grade even from the date prior to 1.9.1986. However, in the case of the applicant, the findings of the review DPC were kept in sealed cover because vigilance clearance was not granted to the applicant.

4. This is opposed by the learned counsel for the respondents on the ground that the findings of the DPC could not be implemented till the applicant got the vigilance clearance. In his case, the vigilance clearance was not granted.

5. It is well settled that promotion cannot be denied on the ground of non-clearance ~~for~~ *by* vigilance *angle* ~~case~~ when there is no actual chargesheet against the official. In this case, the chargesheet was issued much later on 16.2.1988.

6. In view of this, we direct the respondents, as an interim measure, to open the sealed cover wherein the recommendations of the DPC held in 1990 have been kept and in case the DPC has found the applicant suitable for promotion to the selection grade, the same shall be given effect to.

T.S. Oberoi
(T.S.OBEROI)
MEMBER(J)

D.K. Chakravorty
(D.K.CHAKRAVORTY)
MEMBER(A)