

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

* * *

O.A. No.1740/91

Date of Decision : 02.03.93

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Shri R.A. Prajapati

...Applicant

Vs.

Union of India & Ors.

...Respondents

CORAM :

Hon'ble Shri J.P. Sharma, Member (J)

Hon'ble Shri S.R. Adige, Member (A)

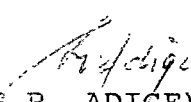
For the Applicant

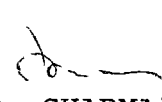
...Shri R.L. Sethi

For the Respondents

...Shri K.C. Sinha

1. Whether Reporters of local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?


(S.R. ADIGE)
MEMBER (A)


(J.P. SHARMA)
MEMBER (J)



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For the Applicant

...Shri R.L. Sethi

For the Respondents

...Shri K.C. Sinha

JUDGEMENT

(Delivered by Hon'ble Shri J.P.Sharma, Member (J))

The applicant is working as Assistant Accounts Officer (Planning) in the General Manager Telecom Office, Chaziabad. The grievance of the applicant is that the Chief General Manager, Telecom has issued a memo dt.28.6.1991 for promotion to the post of Accounts Officer from the post of Junior Accounts Officer/Junior Accounts Officer and the name of the applicant is missing from the list of officers, who have been so promoted (Annexure A1). The case of the applicant further is that he belongs to SC category and on the recommendations of the DPC, respondent No.1 issued promotion orders that the duly constituted DPC had actually approved the name of the applicant. As a result of this recommendation, the applicant was appointed as Accounts Officer on the basis vide respondent NO.1's letter dt.25.3.1992 (Annexure A2) and the name of the applicant appears at Serial No.142.

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However, respondent NO.2-Chief General Manager, Telecom did not endorse promotion order dt.25.3.1991 of the applicant as Accounts Officer on regular basis and the promotion order has not been issued in respect of the applicant and the others including some juniors to the applicant have been promoted as Accounts Officer in the impugned order.

The applicant in this application has prayed for a direction to the respondents not to withhold applicant's promotion to the post of Accounts Officer from the date his junior was promoted with consequential financial benefits.

The respondents in their reply have opposed the grant of the prayer. However, the applicant has since been promoted as Accounts Officer w.e.f. 11.11.1991 and also filed an application with the counter a photocopy of the said telex (Annexure CA-1). The said telex reads as follows :

"Shri R.A. Prajapati, AAO is promoted as Accounts Officer as per DOT, New Delhi telex message N 37-13/91-SEA dt.11.11.1991 and posted as AO (SBP) O/O Saharanpur. Officer may be relieved immediately. Matter most immediate."

Now only grievance left to the applicant is that his promotion w.e.f. 11.11.1991 be antedated to 20.6.1991, as has been given to some of his juniors.

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We have heard the learned counsel for both the parties at length and perused the record. The contention of the learned counsel for the respondents is that the vigilance officer has given a telex that the petitioner was involved in a criminal case under Section 323/504 IPC and the case was registered on 27.8.1990. It has also been informed that the petitioner was arrested under Section 34 of the Police Act on 27.3.1991 and he was punished by warning by the Court on 23.3.1991. A telex message of the same is annexed as Annexure CA-1 at p-56. In view of the above facts, the applicant could not claim promotion as a matter of right because the DPC has considered the matter of the applicant oblivious of this fact on 25.5.1993, but the matter came to light when the promotion order was issued on 20.6.1991 (Annexure A1). The applicant should have given a report of his arrest as required by a Government servant as per Government of India instructions NO.4 below Rule 10 in CCS(CCA) Rules, 1967. It is further argued by the learned counsel that the competent Disciplinary Authority has contemplated disciplinary case against the applicant. The promotion of the applicant was also subject to the vigilance and disciplinary clearance which a person has to satisfy before his actual promotion and placement in the promotion grade is made. In view of the eviction of the applicant in the criminal case, the applicant was not given promotion as Accounts Officer along with his juniors and his name was rightly omitted in the impugned order dt.20.6 1991.

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The contention of the learned counsel for the applicant that he has no disciplinary case pending against him and that there was no chargesheet served on him or that the adverse or critical remarks in his ACR were communicated cannot have any significance in the light of the conviction of the applicant in a case under Section 323/504 IPC of Police Station, Srinagar, Garhwal, U.P. The applicant has not controverted this fact in his rejoinder.

In view of the above facts and circumstances of the case, we find that the present application is totally devoid of merit and is dismissed leaving the parties to bear their own costs.

S.R. Adige
(S.R. ADIGE)
MEMBER (A)

J.P. Sharma
23.5.53
(J.P. SHARMA)
MEMBER (J)