

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 1786/91

(13)

New Delhi this the 31st day of August, 1995.

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

Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

Shri I.C. Roy,
R/o 7/68,
Suramya Apartments, Near Navanpura,
Telephone Exchange, Admedabad- 380 013 ... Applicant

By Advocate Shri P.P. Khurana (though not appeared)

Versus

1. Union of India through
The Secretary, Ministry of
Finance, Department of Revenue,
North Block, New Delhi.
2. Central Board of Direct Taxes,
through its Chairman, North
Block, New Delhi ... Respondents

By Advocate Shri R.S. Aggarwal (though not appeared)

ORDER (ORAL)

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

When this case was called, none appeared for either party. We have, therefore, perused the records and we proceed to dispose of this OA. The applicant, employed in the Department of Revenue, was aggrieved by the fact that, in respect of his promotion to the grade of Assistant Commissioner of Income-Tax since 1989-90, the respondents have been adopting the sealed cover procedure, notwithstanding that, on the date of meeting of the DPC, neither any disciplinary proceedings was pending against the applicant nor any charge-sheet had been served for any alleged misconduct. He has, therefore prayed for a direction to the respondents to ~~consider his~~

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(1A)

~~for a direction to the respondents~~ to consider his case for promotion to the grade of Assistant Commissioner of Income-Tax by holding a review DPC of the DPC as held on December, 89/January, 90 after the expunction of the adverse remarks and he may be promoted from the date his immediate junior was promoted.

2. When the matter came up for admission on 9.8.91, the application was admitted and after hearing the applicant's counsel, a direction was issued to the respondents to open the sealed cover immediately and give effect to the recommendations of the DPC with a further direction that the promotion made would be subject to the result of this application. Apparently, the respondents did not have any grievance against this interim order and had duly complied it.

3. The reply of the respondents shows that when the DPC met in January/February, 1990, the applicant could not be recommended as sufficient number of officers with better grading than the applicant were available and were recommended for promotion. It is only when the DPC met in March, 1991 that it kept its recommendations in respect of the applicant in a sealed cover as his integrity was not certified at that time and that this procedure was in accordance with the then Government instructions existing at that time. It is further stated that when the sealed cover was opened in compliance with the interim directions, it was found that the applicant was recommended for promotion. The recommendations were accepted and the applicant was promoted as Assistant Commissioner of Income-Tax w.e.f. 27.3.91 and

seniority has also been fixed (Annexure 1). (15)

4. The respondents contend that the case of the applicant was properly kept in the sealed cover by the DPC held in March, 1991. That is the only issue for consideration. They have admitted that no charge-sheet has been served on the applicant when the DPC met in March, 1991. There was only a suspicion about his integrity.

5. Having regard to the judgement of the Supreme Court in U.O.I. versus K.V. Janakiraman & others (1991(4) SCC 109), we are of the view that the Departmental Promotion Committee was not justified in placing its recommendations in respect of the applicant in a sealed cover when it met in March, 1991. Hence, the interim direction given on 9.8.91 is made absolute and as the interim order already been complied, we do not find that there is a need for any further order except to confirm the interim order given on that date.

6. The O.A. is disposed of as above.

Lakshmi Swaminathan

(Mrs. Lakshmi Swaminathan)
Member (J)

N.V. Krishnan

31/8/95
(N.V. Krishnan)
Vice Chairman (A)

/skant/