

(22)

In the Central Administrative Tribunal
Principal Bench: New Delhi

OA No.2833/91

Date of decision: 24.12.1992.

Shri Hira Nand Sachdeva

...Petitioner

Versus

Union of India through the
Secretary, Ministry of Urban
Development & Others

...Respondents

Coram:-

The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman(J)

The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner Shri A.K. Behra, Counsel.

For the respondents Shri M.L. Verma, Counsel.

(Judgement of the Bench delivered by Hon'ble
Mr. I.K. Rasgotra, Member (A))

The petitioner is aggrieved by the Director General (Works), Central Public Works Department (CPWD) order No.15011/2/89-EWI dated 3.7.1991, appointing Shri M.A. Jacob, Superintending Engineer (Civil) in CPWD. The petitioner contends that he was senior to respondent No.4 in the seniority list. He is placed at Srl. No.97 whereas respondent No.4 was at srl. No.99.

2. The brief facts of the case are that the petitioner worked in the Military Engineering Service from 1966 to 1974 from where he retired in the rank of Major and joined CPWD as Assistant Executive Engineer (Civil) in 1974. He was promoted as Executive Engineer in 1975 and Superintending Engineer in 1978. A DPC was held for promotion to the grade of Chief Engineer for filling up 9 vacancies for the year 1990⁹¹ on 26.7.90. The petitioner was considered but he was not recommended for promotion. On the other hand, his junior, Respondent No.4 was placed on the panel and subsequently promoted as Chief Engineer vide order referred to above. Shri A.K. Behra, the learned counsel for the petitioner submitted that the petitioner has never been communicated

any adverse remarks. He, therefore, apprehends that his confidential reports for 1983-84, 1984-85, 1985-86 and 1986-87 must have been luke warm, as nothing was conveyed to them. This fact is supported by the fact that the petitioner has not been placed on the panel, as the same ACRs were considered by the DPC. In support of his argument he referred us to page 63 of the paper book which is an extract of directions for writing confidential report as per CPWD Manual, 1986. The relevant part of the said instructions in the Manual provide as under:-

"Apart from the adverse remarks in the confidential reports, in case it is noticed at any time that there is a fall in the standards of an Officer in relation to his past performance as revealed through the assessment, his attention should be drawn to this fact so that he can be alerted for improving his performance and does not suffer in his service prospects without knowing about the deterioration in his performance."

The learned counsel, therefore, submitted that in view of the above instructions if there was any fall in the standard of the petitioner he should have been alerted with a view to improving his performance. The petitioner, however, was kept totally in the dark. We were further referred to pages 125-128 of the paper book. These are some documents filed along with the MP by the petitioner. Page 126 is a letter addressed to the petitioner by the Chief Engineer, Valuation though not legible but seems to commend his service in valuation cases. This commendation in the valuation work is further obvious from the Chief Engineer Shri A. Sankaran's letter dated 21.5.1986 which too is addressed to the petitioner.

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3. Shri M.L. Verma, learned counsel who appeared for the respondents, as per our direction submitted the records relating to the DPC proceedings as well as the ACR dossiers of the petitioner for the perusal of the Court. We have carefully gone through the CR dossiers of the petitioner. That nothing adverse was communicated to the petitioner is not borne out by the facts of the case. In fact certain adverse entries were communicated to the petitioner on 9.3.1983 relating to the period 5.12.1980 to 1.5.1982. Thereafter petitioner's performance improved and nothing adverse came to the notice. After 1982 there is progress but marginal improvement in the performance of the petitioner, but it is not marked enough as to earn him placement in the panel by the DPC. He does not measure up to the bench mark requirement of 'very good'. We do not find any incompatibility between the grading reflected from the relevant ACRs and the grading assigned to him by the DPC. Since he could measure up to the bench mark 'very good' he could not be placed on the panel. Regarding the instructions as given in the CPWD Manual (page 63) extracted above in paragraph-2 above, the learned counsel for the respondents referred us to the Manual itself. A note right in the beginning of the Manual states that the instructions of the Manual are only as guidelines and have no authoritative or statutory backing. Shri M.L. Verma, learned counsel for the respondents, therefore, stated that inference that the DPC proceedings are initiated as the instructions in the Manual were not adhered to by the respondents do not hold ground. Regarding the commendations received by the petitioner from the Chief Engineer (Valuation) Shri A. Sankaran, the respondents in the reply to the MP relating

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to this aspect have stated that an individual commendation letter does not form the basis of the DPC proceedings. The totality of the performance of an officer in a year is reflected in the ACRs and it is the ACRs for the relevant years that are taken into consideration for assessing the performance of the individuals for the purpose of placement in the select list.

4. We have considered the matter carefully and perused the records. We are of the considered view that the DPC's proceedings are fair and just and are fully compatible with the performance of the petitioner as reflected in his ACRs. We also do not find any reason to believe that Shri A. Sankaran, Chief Engineer has any bias against the petitioner as he is the one who also issued a commendation letter in regard to the disposal of the valuation cases by the D.V.O., Chandigarh where the petitioner was posted. We are, therefore, satisfied that the DPC proceedings do not warrant any judicial interference in the facts and circumstances of the case. The O.A. is accordingly dismissed. No costs.

I.K. Rasgotra
(I.K. RASGOTRA)
MEMBER(A)

24/12/92

Ram Pal Singh
(RAM PAL SINGH)
VICE-CHAIRMAN(J)