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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA 900/1991

Date of decision: 29.03.1993.

Shri P.C.D. Mathur

... Applicant

Versus

Union of India & Another

... Respondents

For the Applicant

... Shri B.S. Maine,
Counsel

For the Respondents

... Ms. Anju
Srivastava, proxy
counsel for Shri
Shyam Moorjani,
Counsel

CORAM:

THE HON'BLE MR. JUSTICE S.K. DHAON, VICE CHAIRMAN (J)
THE HON'BLE MR. I.K. RASGOTRA, ADMINISTRATIVE MEMBER

1. To be referred to the Reporters or not?

JUDGMENT (ORAL)

(of the Bench delivered by Hon'ble Mr. Justice
S.K. Dhaon, Vice Chairman)

The petitioner was employed on 18.02.1957 in the post of Inspector of Works. A Departmental Promotion Committee (hereinafter referred to as 'DPC') on 16.04.1988 was held to consider for promotion candidates, including the petitioner. The promotion post was that of an Assistant Engineer. The Committee adopted the "Sealed Cover Procedure" in the case of the petitioner. On 12.06.1990 a charge-memo, for the first time, was given to the petitioner and with that the disciplinary proceedings commenced. The grievance, in substance, is that the Committee on 16.04.1988 acted

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illegally and without jurisdiction when it took resort to that procedure.

2. A reply has been filed on behalf of the respondents. Counsel for the parties have been heard.

3. In the reply filed it appears to be admitted that on 16.04.1988 neither a charge-memo had been issued to the petitioner nor any charge-sheet had been submitted against him. It has been brought to our notice that on that day some vigilance enquiry was going on against the petitioner.

4. It is now well settled that the "Sealed Cover Procedure" can be adopted only if departmental proceedings have commenced or criminal proceedings are pending before a competent court. There can be no difficulty in concluding that on 16.04.1988 the departmental proceedings were not pending against the petitioner. If that was so, the DPC had acted illegally in placing the recommendation relating to the petitioner in a "Sealed Cover".

5. We direct that the "Sealed Cover" containing the recommendation of the DPC shall be opened. If the Committee had found the petitioner fit for promotion, he should be given promotion from the date his junior had been promoted on the basis of the DPC. The petitioner should also be given consequential benefits, if he is entitled to.

6. With these directions, the application is

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disposed of finally with no order as to costs.

Dabirji
(I.K. RASGOTRA)
MEMBER (A)
29.03.1993

Say
(S.K. DHAON)
VICE CHAIRMAN
29.03.1993

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