

**Central Administrative Tribunal  
Principal Bench**

**OA No.2081/2004**

New Delhi this the 16<sup>th</sup> day of January, 2006.

**Hon'ble Mr. V.K. Majotra, Vice-Chairman (Admnv)  
Hon'ble Mr. Shanker Raju, Member (Judl)**

R.K. Maheshwari,  
S/o Shri G. Singh,  
69/E, Yadav Nagar,  
Delhi.

-Applicant

(By Advocate – None)

**-Versus-**

1. Department of Personnel & Training,  
through its Secretary,  
North Block,  
New Delhi.

2. Union Public Service Commissioner,  
through its Secretary,  
Dholpur House,  
Shahjahan Road,  
New Delhi.

-Respondents

(By Advocate Shri S.K. Gupta with Shri T.S. Malik, Advocate)

**ORDER (ORAL)**

**Mr. Shanker Raju, Hon'ble Member (J):**

None appeared for applicant, even on the second call. OA is disposed of in terms of Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. By virtue of this OA a challenge has been made to order passed on 3.12.2003 by the respondents as well as on 16.2.2004, rejecting the request of applicant for promotion on inclusion in select list of Section Officers in the year 1992.

3. Applicant who belongs to a scheduled caste community on the basis of Limited Departmental Competitive Examination held in 1992 for Section Officers grade was declared successful and was included in the select list issued by the Union Public Service Commission. However, before he could be actually promoted a charge-sheet was drawn against applicant on 17.9.1993, which culminated into a minor penalty of censure inflicted on 22.7.1998, which has not been assailed further. Applicant preferred OA-3006/2002. By an order dated 25.2.2003, respondents, in the light of DoPT OM dated 14.9.1992, especially its clause (7) held that after one is considered and found fit for promotion by the DPC, if before actual promotion, any of the conditions, i.e., a charge-sheet if issued in the disciplinary proceedings the promotion would be placed under sealed cover to be governed by the ultimate outcome of the OA. Accordingly, it is stated by the learned counsel of respondents that having not been exonerated fully and as a minor penalty of censure has been inflicted upon applicant, in the light of the decision of the Apex Court in **Union of India v. R.S. Sharma**, 2000 (4) SCC 394, sealed cover before actual promotion is justifiable and the claim of applicant is liable to be turned down.

4. On the other hand, applicant in his OA has stated that the OM dated 14.9.1992 and its clause (7) apply only to promotions and not to a selection post and censure has no bar for promotion. It is not disputed that he was ultimately promoted as Section Officer in the select list of 1997.

5. On careful consideration of the rival contentions of the parties, as clause (7) of the OM of 1992, as upheld in **R.S.**

**Sharma's** case (supra) applicant though had figured in the select list prepared on 31.12.1993 but before he could be considered for actual promotion, charge-sheet was issued to him on 17.9.1993. The charge sheet having been culminated into a minor penalty it cannot be observed that applicant has been fully exonerated of the charges. A minor penalty of censure affects promotion as held by the Apex Court in **Collector v. S. Rajagopalan**, 2000 (9) SCC 145.

6. In the light of the above, we do not find any infirmity in the orders passed by the respondents. Accordingly the OA is found bereft of merit and is dismissed. No costs.

S. Raju  
(Shanker Raju)  
Member (J)

V.K. Majotra  
(V.K. Majotra)  
Vice-Chairman (A)

16-1-06

'San.'