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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.1659/2004 ✓

New Delhi, this the 12th January, 2006

Hon'ble Mr. Justice B. Panigrahi, Chairman
Hon'ble Mr. N.D. Dayal, Member (A)

Mr. Harish K. Dogra
Additional Secretary,
Ministry of External Affairs,
South Block, New Delhi.
(By Advocate: Shri K.K. Gauba)

Versus

1. Union of India
Through
The Foreign Secretary,
Ministry of External Affairs,
Government of India,
South Block, New Delhi.
 2. Shri P.L. Goyal,
Ambassador of India,
Berne, Switzerland,
C/o Ministry of External Affairs,
Government of India,
South Block, New Delhi.
 3. Smt. Chokila Iyer,
Former Foreign Secretary,
C/o Ministry of External Affairs,
Government of India,
South Block, New Delhi.
 4. Secretary (Personnel),
Ministry of Personnel, Public Grievances & Pensions,
Government of India,
South Block, New Delhi.
(By Advocate: Shri N.S. Mehta)
- ... Respondents.

ORDER (ORAL)

By Mr. Justice B. Panigrahi, Chairman:


The applicant was Joint Secretary under Respondent No.2 belonging to Grade III of the Indian Foreign Service. It has been averred in the application that the applicant had an unblemished record of Very Good/Outstanding

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Confidential Reports up to March 2001. It is contended that despite having such a clean and unblemished record, when the DPC convened on 31.8.2001, the Respondents did not recommend his name for promotion. Thus the applicant had filed an OA being OA No.2640/2001. The Tribunal in the aforesaid OA quashed the DPC recommendations in so far it related to the applicant's case and directed the respondents to hold a review DPC. The applicant's grievance was that even though he possessed 'very good' grading and unblemished service career and satisfied the benchmark, his case was not considered for promotion and was not promoted then. He was, however, granted the rank of Additional Secretary. Therefore, in this case, he has prayed to quash and set aside the confidential reports of the applicant for the period April, 2001 to March, 2002.

2. The respondents have filed their reply by controverting the allegation made by applicant. They have, inter alia, stated that no adverse remarks have been recorded in the Confidential Reports of the applicant. Even assuming if there was some adverse entry, the applicant should have represented for its expunction, but without exhausting such remedies available to the applicant, he should not have rushed to the Tribunal for quashing of the imaginary and speculative adverse entry.


3. During the course of submissions, it has come to light that the applicant has, in the meantime, been promoted to the post of Additional Secretary from Joint Secretary. Presumably, even if it is assumed that there was some adverse entry, the same had not be taken into consideration by the respondents authority while giving the applicant promotion to the post of Additional Secretary. It is impliedly clear that the respondents' authority must have ignored the adverse

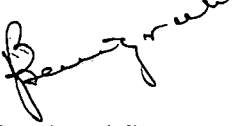


(3)

entry, if any, recorded against the applicant particularly at the time of promotion from the post of Joint Secretary to Additional Secretary.

4. In this view of the matter, we do not think that such adverse entry, if any, shall come in the way as and when his case for promotion to the next higher post is considered. With the above direction, the application is disposed of.


(N.D. Dayal)
Member (A)


(B. Panigrahi)
Chairman

/kdr/