

(6)

In the Central Administrative Tribunal
Principal Bench: New Delhi

OA No.2229/92

Date of decision:19.04.1993.

Shri Durga Parshad Sharma

...Petitioner

Versus

Union of India through the
Secretary, Ministry of Finance,
Department of Expenditure,

North Block, New Delhi
and Others

...Respondents

Coram:-

The Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman
The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner

In person.

For the respondents

Shri J.C. Madan, Counsel.

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

The petitioner Shri Durga Parshad Sharma is working as Junior Accounts Officer (JAO) in the organisation of Controller of Accounts, Ministry of Water Resources w.e.f. 1.4.1987. In this Application filed under Section 19 of the Administrative Tribunals Act, 1985 he has assailed the act of the respondent No.2 viz. Controller General of Accounts in denying him promotion from the post of J.A.O. in the scale of Rs.1640-2900 to the post of Assistant Accounts Officer (AAO) in the pay scale of Rs.2000-3200. He is further aggrieved by the fact that 22 of his juniors have been promoted as AAO vide order dated 3.6.1992. He has prayed that the respondents be directed:

- i) to extend the benefit of promotion as AAO in the scale of Rs.2000-3200 to him w.e.f. 1.2.1992 when he should have come up in his turn for such promotion;
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- ii) to grant him all consequential benefits like arrears of pay, allowances and seniority.

The petitioner contends that he has completed his probation as JAO successfully. He meets all the eligibility conditions for promotion to the post of AAO and that there is nothing adverse reported in his Annual Confidential Reports (ACRs) on him. He submitted representations against his supersession on 5.6.1992 and 24.6.1992. Both the representations were rejected vide order dated 13.7.1992. It is stated in the said order that:

"Shri D.P. Sharma, JAO was duly considered for promotion as AAO by the DPC in his office who found him, 'not yet fit for promotion as AAO'"

2. The stand of the respondents is that the petitioner was chargesheeted on 19.10.1983 and consequently a penalty of censure and recovery of amount fraudulently claimed by him during the period August, 1980 to March, 1982 was imposed vide order dated 27.3.1987 in accordance with law. The validity of the said order has not been challenged by the petitioner. They further submit that the DPC took all circumstances into consideration while declaring him 'not yet fit' for promotion. The petitioner's contention that he was appointed as JAO w.e.f. 1.4.1987 when he was undergoing the penalty of 'censure' has been met by the respondents by pointing out that at the relevant time the penalty of censure was not considered as bar for promotion according to the departmental instructions.

3. We had partly heard this matter on 7.4.1993 when it was felt that it will be in the interest of justice to peruse the proceedings of the DPC. Accordingly, the respondents were directed to produce the relevant record for the perusal of the Court. When the matter came up today, the 13.4.1993 the respondents produced the relevant

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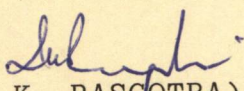
record containing the proceedings of the minutes of the DPC for our perusal. From the record of the minutes of the DPC held on 8.10.1991 to consider the cases of JAOs (Rs.1640-2900) for promotion as AAOs (Rs.2000-3200) we find that the petitioner was in the zone of consideration and figures at srl. No.130. The DPC assessed him as 'not yet fit' for promotion as AAO. The DPC after reviewing the overall performance of the JAOs for the past 5 years and specially for the last 3 years recommended 155 JAOs as fit for empanelment for promotion to the posts of AAO. Since the petitioner was found 'not yet fit', his name was not included in Annexure-2 which contains the names of those who were found fit for empanelment. We further find that a review DPC was held on 30.10.1991 in which the case of the petitioner was reviewed in detail, duly taking into account the overall performance of the petitioner during the period of last 5 years. The Committee also noted that for some irregularities committed by the petitioner "as far back as 1980-82 a penalty was imposed on him in the period of review." Further he had also remained under suspension from 9.12.1986 to 26.3.1987. Keeping in view the total performance and circumstances of the case of Shri Sharma the Committee came to the conclusion that there was no need to revise its earlier recommendations made on 8.10.1991. In the circumstances, the petitioner was not recommended for empanelment as AAO. Accordingly he could not be promoted as AAO.


4. On perusal of the relevant record, we are satisfied that no injustice has been done to the petitioner and the DPC has carried out the task entrusted to it in a fair and just manner in accordance with law. There is no allegations of

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bias or malafides against any member of the DPC. The contention of the petitioner that he was promoted as JAO when he was under investigation/punishment also fails to support his case for promotion as AAO, as at that time, the penalty of 'censure' did not constitute a bar to promotion. This situation changed later.

5. In the facts and circumstances of the case we are not persuaded to interfere with the proceedings of the DPC. The O.A. fails and is accordingly dismissed. No costs.


(I.K. RASGOTRA)
MEMBER(A)


(S.K. DHAON)
VICE-CHAIRMAN

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