

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

DA 1130/92

This, the 25th day of August, 1994

(21)

Hon'ble Sh. N.V. Krishnan, Vice-Chairman (A)
Hon'ble Sh. C.J. Roy, Member (J)

Shri R.C. Srivastava,
Res. at 7B, Rly. Boards Flats,
Sarojini Nagar,
New Delhi - 23.

.... Applicant

Vs.

1. Union of India through
Secretary, Ministry of Railways,
Rail Bhawan, New Delhi.
2. General Manager,
Northern Railway,
New Delhi.

.... Respondents

(By Advocate : Shri H.K. Gangwani)

ORDER (ORAL)

Shri N.V. Krishnan

The applicant is aggrieved by the Ministry of Railways order dated 10.7.91 (Annexure - A) communicating their decision to place certain Junior Administrative Grade Officers of the IRSCE in Selection Grade with effect from 1.7.90, on the ground that his name is not included in the list, though the names of the juniors have been included. He has therefore, prayed for a direction to the Railway Board to place his name on the above said list on the basis of his seniority on All India basis and to pay arrears due to him with interest.

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2. The respondents have filed their reply in which it is stated that the applicant was promoted to the Junior Administrative Grade of IRSSE on 10.12.86. As per the provisions of the Indian Railway Establishment Code Vol. I, appointment to posts in administrative grades are made by selection which is decided by a Selection Committee comprising of the Members of the Railway Board, who are of the rank of Secretary to the Govt. of India. Their recommendations are, thereafter, approved by Minister for Railways. (22)

3. Accordingly, a selection was held in June, 91 for considering promotions to Selection Grade in the Group 'A' of the Railway Service. The claims of the applicant as well as others in the Junior Administrative Grade were considered. However, as the applicant was facing a departmental enquiry in two cases, the findings of the Selection Committee were kept in a sealed cover. It is stated in one case, a decision was taken by the competent authority to initiate disciplinary proceedings on 12.2.91 but the charge sheet was issued on 29.8.91. A minor penalty of censure was imposed on 8.12.91. In another case, a charge sheet was issued on 19.10.89 and the minor penalty of stoppage of passes and PTUs was imposed on 22.1.92.

4. After the orders were issued, the applicant was placed in the Selection Grade with effect from 23.1.92, i.e., the next date after imposition of the penalty in the circumstances mentioned above.

5. In the circumstances, the respondents contend that the applicant can not be given the post of Selection Grade or the benefit of the Selection Grade with effect from the date on which the orders were first issued on XX 10.7.91. For this purpose, he relies on the decision of the Supreme Court in Janakiraman case AIR 91 Supreme Court page 201C.

6. We have perused the record and considered the pleadings in this OA and arguments of the learned counsel for the respondents. On an earlier occasion, we wanted to know ~~whether~~ from the respondents as to whether a penalty of censure or a penalty of withholding of passes in the case would necessarily have the effect of postponing promotion in a case where the recommendations are kept in a sealed cover. The learned counsel for the respondents submits that the recommendations of a DPC or Selection Committee is placed in a sealed cover because of the ~~penalty~~ ^{re dependency} of disciplinary proceedings where charge sheet has been issued. If the delinquent is fully exonerated then alone he can claim that the recommendations of the DPC contained in a sealed cover should be given effect to from the date when his juniors were given promotions. However, if the delinquent is punished, even by imposition of a minor penalty, meaning thereby that he has been found guilty of the charges in the departmental proceedings, ~~XXXXXX~~ he can not be rewarded by promotion with retrospective effect, whatever be the nature of the

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penalty. Such promotion can be given only after the
penalty has been suffered or after the date next to the
date on which, the order of penalty was issued.

7. We agree. The respondents are on strong grounds.
In the present case, the order of penalty in one
disciplinary proceedings(i.e. censure) has been imposed
which is absolute and is not in the nature of a continuing
penalty. In the other disciplinary proceedings, the
penalty is stoppage of passes and PTOs which, also, had
taken effect from the date on which the penalty order
was passed. In the circumstances, there is no continuing
penalty. But as the penalty has been imposed, retrospective
promotion can not be given. The benefit of Selection Grade
can be given to the applicant only from the date next
to the date on which punishment was imposed on 23rd May.

8. Hence, the OA has no merit and it is dismissed.

intention
(C.JL Roy)
Member(J)

Chairman
25/8/94
(N.V. Krishnan)
Vice-Chairman(A)

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