

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. No. 1464/1993

New Delhi, dated the 20th May, 1994  
Hon'ble Sh. N.V. Krishnan, Vice Chairman (A)  
Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri R.P. Gaur,  
Resident of A-66,  
Teachers Colony, Samaipur,  
Delhi-110042

... Applicant

(By Advocate Sh. M.K. Gupta)

Versus

1. Govt. of India National Capital Territory of Delhi through its Chief Secretary, 5, Sham Nath Marg, Delhi
2. Maulana Azad Medical College, B.S. Zafar Marg, New Delhi
3. The Commissioner, Food Supplies and Consumer Affairs, 2 under Hill Road, Delhi-54
4. The Secretary (Services), 5-Sham Nath Marg, Delhi.

... Respondents

(By Advocate Sh. Anoop Bagai)

ORDER (ORAL)

(Hon'ble Sh. N.V. Krishnan, Vice Chairman (A))

Applicant was promoted on adhoc and emergent basis to Grade-III of Delhi Administration Subordinate Service by the order dated 21.9.90 (Am.A.3) of the Chief Secretary (Delhi Admn.) His name is at sl.No.30 of the list of the persons promoted by that order. Para 3 of that order directs the concerned authorities to ensure

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before relieving the officials promoted that there is nothing adverse in the ACRs for the period 1984 to 88-89 and no disciplinary proceeding/vigilance case is pending against them.

2. Before the applicant was relieved, he received Ann.A.4 memo dated 17.6.91 communicating to him the adverse remarks for 1985-86 and 1986-87 and 1988-89, the remarks are that he was occasionally a late comer for the first two years and that he was habitual late comer for the last year.

3. Applicant made a representation on 22.7.91 (Ann.A.3) to expunge the adverse remarks to which no reply has been received. He also filed Ann.A.6 representation stated to be sent on 4.12.1991, requesting that he should be relieved for taking this promotion.

4. Getting no reply from the department, he filed this O.A. to quash the Ann.A.4 memo dated 17.6.91 communicating the adverse remarks and to direct the respondent to promote the applicant to the Grade-III, as already ordered by the respondents vide order dated 21.9.90.

5. Respondents have filed a reply contesting the application and denying relief to the applicant.

6. On 18.1.1994 we gave a direction to the respondents to state whether, before the applicant was

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approved for promotion by the Ann.A.3 O.M. dated 21.9.90, the competent authority had looked into his ACRs .In this regard, a reply has been filed by the Deputy Secretary (Services) on behalf of the respondents, stating that the applicant was promoted by the Ann.A.3 order on the basis of the Vigilance clearance report/special report on work and conduct, type test report and the assessment of ACRs for the last 5 years from 1984 to 1988 which was that the overall grading for the applicant ACR was average and conduct was satisfactory.

7. In the light of the affidavit, we put to the ld. counsel for the respondents, whether there was any justice in communicating belatedly the adverse remarks by the Ann.A.4 and whether respondents were justified in not relieving the applicant for promotion in accordance to Ann.A.3 order. He was unable to satisfy on this point and circumstances of On the facts/ this case, we are of the view, that the action of the respondents is indefensible.

8. We are of the view that the belated communication of adverse remarks is bad. The ACR was already looked into and promotion ordered. The sting in the remarks, even if communicated in time, is lost because promotion has been ordered despite these remarks.

9. In the circumstances, we quash the Ann.A.4. Memo. communicating the adverse remarks and direct the respondents to relieve him in accordance with Ann.A.3

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order with all consequential benefits. This order shall be complied within two months from the date of receipt of a copy of this order .  
Accordingly, O.A. is disposed of.

*Lakshmi Swaminathan*  
(Lakshmi Swaminathan)

Member(J)

*N.V. Krishnan*  
20/5/94  
(N.V. Krishnan)

Vice Chairman(A)

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