

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.2078/93

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Shri R.K. Ahooja, Member(A)

New Delhi, this the 17 day of August, 1999

In the matter of:-

Shri M.M. Gupta
S/o Late Shri Basheshwar Nath
Aged 57 years, Working as
Pay & Accounts Officer
(Functional Promotion Grade)
Ministry of Engery
840, Sewa Bhawan
R.K. Puram, New Delhi
R/o Sector III/Gr.No.333
R.K. Puram, New Delhi

....Applicant

(By Advocate: Shri T.C. Aggarwal)

Versus

UNION OF INDIA through
Controller General of Accounts
(Ministry of Finance)
Lok Nayak Bhawan
Khan Market, New Delhi

....Respondent

(By Advocate: Shri P.W. Ramchandani)

O R D E R

[Hon'ble Shri R.K. Ahooja, Member(A)]

The facts of the case are as follows. The applicant who joined in the office of the Accountant General, Central Revenues on 23.8.1956 and rose to the position of Pay & Accounts Officer became due for crossing the EB w.e.f. 1.12.1985. A D.P.C. was held on 15.5.1985. As the respondent declared that he was not found fit, the applicant filed an O.A. No.25 of 1990 which was decided by an order dated with the directions to the respondent to reconsider his case. The same was, however, rejected once again by the Review DPC vide order dated 25.9.1992, which led to the applicant

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✓ filing another O.A. No.1683/92. The said O.A. was decided in his favour by an order dated 27.11.1992. The applicant had been meanwhile confirmed as a Sr. Accounts Officer from 1.5.1985. As his ACRs prior to that date did not have any adverse entries, a fresh direction to reconsider the case of the applicant was given in the light of the observations made by the Tribunal. Thereafter the applicant was allowed to cross the EB w.e.f. 1.12.1984 by an order dated 9.9.1992. The applicant has now again come before the Tribunal with a grievance that he has been wrongly superceded for promotion to the post of Dy. Controller of Accounts on the basis, that he had been ^{unwisely placed in} lower in seniority on account of delayed confirmation in service and also because his immediate boss, one Shri Pathak, who was Dy. Controller of Accounts(HQ), was biased against him and gave him poor reports.

2. The allegations of the applicant have been denied by the respondent. We have heard the counsel. Shri T.C. Aggarwal, learned counsel for the applicant submits that once the applicant had been found fit for crossing the EB in 1985 and also for confirmation in 1990, he could not have been found unfit for promotion as Deputy Controller of accounts in the year 1990. He also submitted that it was settled law that if despite adverse reports, the employee is given a promotion, the result is that ~~The~~ sting is taken out of the adverse remarks and the same cannot be held against him for subsequent promotions.

3. We would be in agreement with the learned counsel

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if the basis for crossing the EB and confirmation were the same as for promotion to the post of Dy. Controller of Accounts. We find, however, that the criteria for crossing the EB is 'fitness', while for promotion to the post of Dy. Controller of Accounts it is 'selection'. According to the respondents, the applicant was not found suitable for promotion as there were others more meritorious available in the zone of consideration. We have called for the records and have carefully gone through the proceedings of the DPC as well as the ACR dossiers. We find that the applicant had been given an overall grading of "Good". It was not only a fair but also somewhat liberal ^{finding or} considering his record. However, as the number of persons with "Outstanding" and "Very Good" gradings were available, the name of the applicant could not be included in the selection panel. ^{But or} However, on the same grading, the applicant could not be considered unfit for crossing the efficiency bar and was, therefore, rightly allowed to cross the EB and also confirmed in the post of Pay & Accounts Officer.

4. The applicant has alleged mala-fide against respondent No.4 Shri Pathak, who was the supervisory officer and initiated some of his ACRs for the relevant period. We find no indication of such mala-fide since assessments given by Pathak ~~are~~ by and large conform to the applicant's ~~to the~~ earlier record as well as for the period after Shri Pathak ceased to be his controlling officer.

5. In the result, we find no ground for interference. The O.A. is accordingly dismissed.


(R.K. AHOOJA)

SC MEMBER(A)


(V. RAJAGOPALA REDDY)

VICE CHAIRMAN(J)