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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,  
NEW DELHI.

O.A.No.2118/93

New Delhi this 13th May, 1994.  
Hon'ble Mr. S.R.Adige, Member(A)  
J.D.Gupta,  
r/o 69, New Rajdhani Enclave,  
Vikas Marg, Delhi-92,  
(Retired Asstt. Engineer,  
PWD Div.I, New Delhi)

By Advocate Shri S.C.Jain .....Applicant.

Versus

1. Union of India,  
through  
Secretary, Ministry of Urban Development,  
Nirman Bhawan, New Delhi.
2. Director General of Works,  
CPWD, Nirman Bhawan,  
New Delhi

By Advocate Shri B.Lal

.....Respondents.

JUDGMENT

In this application, Shri J.D.Gupta, a retired Asstt. Engineer, New Delhi has prayed that the order dated 19.2.93 (Annexure-A1) declaring him not fit to cross the efficiency bar with effect from 1.3.84 or 1.3.85. be quashed.

2. The applicant was appointed as a Junior Engineer in CPWD w.e.f. 3.10.55 and superannuated on 31.3.93 as an Asstt. Engineer. He received the impugned order dated 19.2.93 informing him that he had not been found fit to cross the efficiency bar w.e.f. 1.3.84 or 1.3.85. He states that he filed an appeal against the said order on 2.4.93 which was followed by reminders, but has not received any reply. Amongst the grounds taken are that the order does not disclose the particulars of the Competent Authority who passed it; nor the date of decision; nor the period upto which the ACRs of the applicant were taken into account. He alleges that these orders were issued

without obtaining the DPC's recommendations and states that there are no provisions under the Fundamental Rules for ~~debarring~~ <sup>debarring as</sup> ~~withholding~~ the Government Servant from crossing of efficiency bar for two years at a time. He further states that the respondents had illegally taken into consideration ~~a~~ <sup>a</sup> punishment order dated 29.12.83 though it was quashed by this Tribunal, vide its judgment dated 14.11.91. Though no adverse entry was communicated to him, he was not allowed to cross the efficiency bar. He further states that the guidelines contained in O.M. dated 30.3.89 have been ignored.

3. I have heard Shri S.C.Jain, learned counsel for the applicant and Shri B.Lal, learned counsel for the respondents.

4. When it was pointed out to Shri Jain that the DPC did consider the applicant's case for crossing of efficiency bar in its meeting on 19.2.93, Shri Jain asserted that the DPC's meeting should have been held much before i.e. in 1991 or 1992 itself and on this ground also, the impugned order was fit to be set aside. In this connection, he relied upon the case of 'O.P.Gupta Vs. Union of India' (A IR 1987 SC 2257) in which it has been held that no decision will be taken which effects the right of a person without giving him an opportunity of putting forward his case. Shri Jain states that the impugned order had punitive consequences, but no opportunity had been given to him to show cause against the impugned action.

5. Learned counsel for the respondents has produced for my inspection the relevant departmental file, and <sup>an</sup> photocopy of <sup>The</sup> relevant noting has been

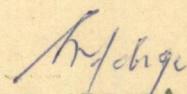
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taken on record. It would appear that a properly constituted DPC was convened on 19.2.93 to consider the case of the applicant's crossing of efficiency bar with effect from 1.3.84 or subsequent date i.e.

1.3.85. The Committee perused the confidential reports of Shri J.D.Gupta, applicant. For considering crossing of efficiency bar of the applicant from 1.3.84, the DPC perused the C.R. for the year 1978-79 to 1982-83 and observed that only two reports were 'Good' and three were 'average' and similarly for considering the crossing of efficiency bar from 1.3.85, the Committee perused the applicant's C.Rs for five preceding years i.e. 1979-80 to 1983-84 and here again observed that two reports were 'Good' and three were 'average'. Thus, it is clear that the DPC did <sup>not</sup> apply his mind to the applicant's overall performance as is reflected in <sup>his</sup> CRs. The applicant has not alleged malafide against any member of the DPC, and it must, therefore, be concluded that their assessment was fair and objective. Crossing of the efficiency bar is not a mechanical or routine act, but is allowed only where the official has performed his duties and functions and discharged his responsibilities efficiently and effectively. Merely because no adverse remarks were communicated to the applicant or no opportunity was given to him to show cause does not vitiate the proceedings of the DPC, and hence the ruling cited by Shri Jain has no relevance in the present case. Moreover, it is not necessary to disclose the particulars of the Competent Authority or the date of the DPC's decision in the order in question. From the materials on record, it is clear

that the respondents did not take into consideration the punishment order dated 29.12.83 which was quashed by the Tribunal in its judgment dated 14.11.91 while finding the applicant unfit for crossing the efficiency bar but they based their decision on the overall performance of the applicant. As this was a purely administrative decision, it was not necessary for the respondents to ask the applicant to show cause, before taking the decision.

6. Having regard to the fact that the respondents took this decision on the basis of the recommendations of a regularly constituted DPC which went into the applicant's ACRs for the relevant period, and for good reasons concluded that his overall performance was not such which entitled him to cross the efficiency bar w.e.f. 1.3.84 or 1.3.85, I see no reason to interfere with the impugned order. This application is accordingly dismissed. No costs.

  
(S.R. ADIGE)  
MEMBER (A)

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