

CENTRAL ADMINISTRATIVE TRIBUNAL:PRINCIPAL BENCH

O.A.No.862/93

New Delhi, this the 26th day of July, 1999

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HON'BLE MR.JUSTICE D.N.BARUAH, VICE CHAIRMAN
HON'BLE MR.N.SAHU, MEMBER (ADMV)

Shri C.L.Sethi,
S/o Shri R.D.Sethi,
aged 50 years, r/o 497/1A,
Bholanath Nagar, Shahdara,
Delhi-32

....Applicant

(By Advocate: Shri A.K.Behra)

Versus

1.Lt.Governor, Delhi
Raj Niwas Marg, Delhi.

2.Chief Secretary,
Government of National Capital
Territory of Delhi,
5,Sham Nath Marg,
Delhi-110054

....Respondents

(By Advocate: Shri Vijay Pandita)

O R D E R (ORAL)

BY BARUAH, J.-

The applicant was initially appointed in Grade-II of Delhi Administration Subordinate Services (DASS) w.e.f. 16.11.65. On 22.1.90, selection was held by the Delhi Administration under the provisions of Rule 25(3) of Delhi Andaman Nicobar Islands Civil Services (DANICS) Rules, 1971. The juniors of the applicant were promoted overlooking the claim of the applicant. Being aggrieved, the applicant filed an O.A.2877/91. The said O.A. was disposed of by the Tribunal vide order dated 2.4.92 with the following directions:-

"The respondents are directed to consider the case of the applicant for promotion to duty

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post in the Delhi Andaman & Nicobar Islands Civil Service by constituting a review D.P.C. as on the dates the DPCs were constituted to consider the case of promotion of officers to the said Service. In case, the applicant is found fit for such promotion, he shall be promoted with effect from the date his immediate junior was so promoted. In that event, he would also be entitled to arrears of pay and allowances."

2. As per the above directions, the respondents were to hold the review DPC as on date for consideration of promotion of the officers i.e. 22.1.92. Pursuant to that direction, the Lt.Governor, Delhi considered the case of the applicant and passed the order on 3.11.92. We quote below the relevant portion of that order:-

"xxx xxx xxxx The latter procedure is not within the control of Delhi Administration and hence only ad hoc promotions are being made from time to time. Considering this background, and the fact that Shri C.L.Sethi has had serious enquiries pending against him throughout the period after the Tribunal's decision, I do not find it possible to take up Shri Sethi's case for consideration for the purpose of ad hoc promotion."

3. Being aggrieved with the above order, the applicant has approached this Tribunal once again challenging the said order. The written statement has been filed by the respondents. We have heard both the sides.

4. Shri Behra challenges the order dated 3.11.92 stating inter-alia that the order was not in pursuance of the directions given by this Tribunal. In fact, the Lt. Governor took into consideration the subsequent events. Shri Pandita tried to justify the order stating that there

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were two departmental proceedings pending at the time when the impugned order was passed. We have perused the order. We find that the Lt.Governor,Delhi took into consideration the fact that enquiries had been pending against the applicant throughout the period after the Tribunal's decision. This is sufficient to indicate that he had taken into consideration the facts subsequent to 22.1.90. In our opinion, it is not permissible. The applicant ought to have been considered as on 22.1.90. On the submission of Shri Pandita that there were two disciplinary proceedings pending against the applicant, Shri Behra has stoutly refuted the same by inviting our attention to the decision of this Tribunal dated 1.4.92 in OA-2429/90. According to Shri Behra, those disciplinary proceedings had already been concluded. It is for the Lt. Governor or the review DPC to consider and decide ^{as to} whether there was any disciplinary proceeding pending against the applicant, as claimed by the respondents. If there was no such disciplinary proceeding, the applicant should be considered as on 22.1.90 for his promotion.

5. We ^{therefore} set aside the impugned order dated 3.11.92 passed by the Lt.Governor,Delhi and direct that he shall take action strictly in accordance with the directions given by the Tribunal in O.A.2877/91 and pass an order as early as possible at any rate within a period of three months from the date of receipt of this order. No costs.

N.Sahu
(N.Sahu)
Member(Admnv)

D.N. Baruah
(D.N. Baruah)
Vice Chairman(J)