

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated: This the 12th day of January 2004.

Original Application no. 205 of 1997.

Hon'ble Maj Gen K.K. Srivastava, Member-A
 Hon'ble Mr. A.K. Bhatnagar, Member-J

Radhe Shyam, S/o Late Sri J Singh,
 R/o 554/B, Adarsh Nagar, Sipri Bazar,
JHANSI.

... Applicant

By Adv : Sri R. Verma

V E R S U S

1. Union of India through the General Manager,
 Central Railway,
MUMBAI CST.
2. The Chief Workshop Manager,
 Central Railway Workshop,
JHANSI.
3. Deputy Shop Supdt.,
 Millwright Shop, Central Railway Workshop,
JHANSI.

... Respondents.


By Adv : Sri G.P. Agarwal

ORDER

Hon'ble Maj Gen K.K. Srivastava, AM.

In this OA, filed under section 19 of the A.T. Act, 1985, the applicant has prayed for quashing the impugned order dated 06.07.1996 passed by respondent no. 2 denying the promotion to the applicant on the post of Dy. Shop Supdt. in the pay scale of Rs. 2000-3200 w.e.f. 01.01.1984 with all consequential benefits.

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2. The facts, in short, of the case are that the applicant, working in the respondent's establishment, was promoted as Assistant Shop Supdt. on 24.2.1982. However, he was reverted to the lower grade of Chargeman Gr. 'A' on 13.5.1982. He was again promoted as Mechanical Inspector on 23.5.1984, a post which is equivalent to that of Asstt. Shop Supdt. Subsequently, the applicant was promoted as Dy Shop Supdt on 23.2.1989. The grievance of the applicant is that the panel drawn in the year 1985 to be effective from 1.1.1984 did not include the name of the applicant on the ground that there were adverse remarks in the Applicant's Annual Confidential Reports (in short ACRs) for the year 1981, 1982 & 1983. As a result several persons junior to the applicant were placed in the panel and promoted. The applicant filed OA no. 196 of 1992 which was decided by order dated 3.11.1995 with direction to the respondents to consider the case of the applicant in review DPC ignoring the adverse remarks in the applicant's ACRs for the years 1981, 1982 & 1983. The Review DPC was held in February 1996 and the case of the applicant for promotion was not recommended by the Review DPC and accordingly, the impugned order dated 6.7.1996 was issued which has been challenged in this OA. The respondents have contested the claim of the applicant by filing counter affidavit.

3. Sri R. Verma, learned counsel for the applicant submitted that once this Tribunal had directed for holding Review DPC ignoring the adverse entries for the year 1981, 1982 & 1983, there was no question for the review DPC not to recommend the case of the applicant for promotion because the performance of the applicant has been praise-worthy all

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although and there has never been adverse remarks by his superiors except those which were given in the year 1981, 1982 & 1983. It appears that the findings of the Review D.P.C. are based on extraneous considerations. Therefore, the decision of the Review DPC is vitiated. The decision of the review DPC is highly unjust, arbitrary, mala-fide and discriminatory.

4. Resisting the claim of the applicant, Sri G.P. Agarwal, learned counsel for the respondents submitted that the Review DPC was duly constituted and since the DPC is an expert body, the decision of the expert body should not normally be subjected to question. The Review DPC after considering all the aspects did not recommend the case of the applicant and, therefore, no injustice has been done to the applicant by the respondents in not giving him promotion from 1.1.1984. The applicant has got every benefit from 1989.

5. We have heard learned counsel for the parties, carefully considered their submissions and closely perused records.

6. In this case the applicant has challenged non selection to the post of Dy Shop Supdt in the pay scale of Rs. 2000-3200 w.e.f. 1.1.1984. The main ground taken by the applicant is that in the regular DPC he was not promoted because of adverse entries given to him in his

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ACRs for the years 1981, 1982 & 1983 which were never communicated to him. This controversy already stands resolved by order of this Tribunal dated 3.11.1995. The respondents were directed by this Tribunal to hold Review DPC ingoring the adverse entries recorded in the ACRs of the applicant for the years 1981, 1982 & 1983. In pursuance to the order of this Tribunal dated 3.11.1995 in OA no. 196 of 1992, admittedly the review DPC was held during 1996 which did not recommend the case of the applicant for promotion to the post of Dy Shop Supdt in the pay scale of Rs. 2000-3200. The question which comes to our mind is whether we can act as an appellate Court in regard to DPC proceedings. Our answer to this effect is 'NO'. The DPC consists of experts and obviously the DPC makes the recommendation after going through the various relevant records which are placed before it. The applicant has not been able to establish that even the Review DPC rejected the claim of the applicant on the basis of adverse entries recorded in his ACRs for the year 1981, 1982 & 1983. The recommendations of DPC are final and we have no good ground for interference. Besides the contention of the applicant, that Review DPC did not recommend his case for promotion on extraneous considerations, is not substantiated. In our opinion it is a frivolous allegation.

7. In the facts and circumstances, the OA is devoid of merit and the same is accordingly dismissed with no order as to costs.

Member (J)

Member (A)

/pc/