

(R.K.) (S)

CENTRAL ADMINISTRATIVE TRIBUNAL

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Registration O.A. No. 939 of 1987

Dileep Kumar Srivastava Applicant

Vs.

Development Commissioners

and ors

Respondents

Hon' Mr. D.S. Misra, A.M.

Hon' Mr. D.K. Agrawal, J.M.

(By Hon' Mr. D.S. Misra, A.M.)

In this application under section 19 of the Administrative Tribunal Act, 1985, the applicant has prayed for setting aside the order dated 5/8 Sept. 1986 and the order dated 25-8-86, holding the applicant not fit to cross the efficiency bar.

2. The short point for consideration of this case is whether the applicant who has been working as Store Keeper-cum- Accounts Clerk under the respondents is entitled to cross the efficiency bar in the absence of any adverse entry having been communicated to him or any departmental enquiry having been instituted against his work and conduct. The respondents have stated that the case of the applicant for crossing efficiency bar w.e.f. 1-11-1982 was considered by the Departmental Promotion Committee which did not find him fit and the applicant was informed about it vide letter dated 5/8-9-1986 (Copy Annexure-A-4). It is also admitted by the respondents that the representation of the petitioner against their decision to withhold his efficiency bar was considered and rejected by the competent authority.

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urged

3. The only point on behalf of the applicant is that, the applicant was never charged for any irregularity, irresponsibility and slackness in his duty and no explanation was ever required of him, and, therefore, he could not be considered unfit for crossing the efficiency bar and that the order passed against him is illegal and arbitrary. We have considered this contention of the applicant and we are of the opinion that the assessment and findings of the Departmental Promotion Committee, which consists of senior officers cannot be set aside merely because no departmental inquiry into the work and conduct of the applicant has been held. We do not assume the powers of a super Departmental Committee to scrutinise the findings of the DPC which is based on the record of work and conduct of the applicant.

4. It is also urged on behalf of the applicant that the respondents have not disclosed why the applicant was found unfit for crossing the efficiency bar. However, the applicant has failed to point out any rule or instructions of the Department under which it is incumbent on the respondents to disclose the reasons for the applicant not being found fit for crossing the efficiency bar. Accordingly we reject this contention of the applicant.

5. The third contention of the applicant is that, he was declared quasi permanent with effect from the year 1979 by an order passed in the year, 1983 and, therefore, he should be deemed to have become fit for crossing the efficiency bar in the year 1982. The rules for consideration of fitness for crossing

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the efficiency bar are different from the rules for declaring a temporary servant as quasi permanent. The applicant was appointed under the respondents in the year 1976 and after completion of 3 years service, he was entitled to be declared quasi permanent. There was considerable delay on the part of the respondents in passing the order declaring the applicant quasi permanent, but, this delay does not establish the claim of the applicant that he should be deemed fit for crossing efficiency bar. ^{h-} As the case of the applicant for crossing the efficiency bar was considered by the D.P.C which found him unfit. There is no reason to disagree with the findings of the D.P.C.

6. For the reasons mentioned above, we are of the opinion that there is no merit in the petition. Accordingly, we dismiss the petition without any order as to cost.

DK. Gopal
MEMBER (J) 5. 7. 89

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MEMBER (A)

(sns)

June 5th 1989.