

A4

Reserved:

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

...

O.A. No. 1125 of 1992

Dated: 8th March ~~February~~, 1995.

Hon. Mr. S. Das Gupta, Member(A)
Hon. Mr. J.S. Dhaliwal, J.M.

Ajit Kumar Mishra aged about 38 years,
son of Shri R.D. Mishra
resident of Military Farms Allahabad
Allahabad Cantt.

... APPLICANT.

(By Advocate Sri M.K. Upadhyay)

VERSUS

1. Union of India through
Defence Secretary, Ministry of Defence
New Delhi.

2. Quartermaster General
Army Headquarters, QMG's Branch
Sena Bhawan, New Delhi.

3. Dy Director General of Military Farms,
Army Headquarters, QMG's Branch West
Block III, R.K. Puram New Delhi.

4. Departmental Promotion Committee
through the Dy. Director General of
Military Farms, Army HQs, QMG's branch
West Block III, R.K. Puram
New Delhi.

... Respondents.

(By Advocate Sri S.C. Tripathi)

O R D E R
- - - - -

(By Hon. Mr. S. Das Gupta, Member(A))

The applicant in this case started his career as Lower Division Clerk (LDC for short) in the year 1975 and is permanently working at Military Farms Allahabad as a Substantive L.D.C. He was due for promotion in the year 1989 but no DPC was held that year and not in the subsequent 2 years, but the D.P.C. meeting was held in the year 1992 for all the vacancies which

L

- 2 -

had arisen in the years 1989, 1990, 1991 and 1992. This, the applicant contends, is violative of Rules regarding holding of D.P.C. meeting and had resulted in the supersession of the applicant by his juniors. It has been further stated that he had been informed through a reliable source that he has been adjudged as 'good' but his name has been kept in sealed cover. The applicant approached to Jaipur Bench of this Tribunal and obtained certain interim orders directing ^{respondents} not to conduct the disciplinary proceedings at Jhansi in pursuance of the order dated 17.7.1989 till next date ~~is~~^{is} ~~passed~~^{passed}. The applicant has now approached to this Tribunal under Sec. 19 of the Administrative Tribunals Act, 1985 praying for the reliefs for quashing the D.P.C. proceedings by which his juniors were promoted and for directing the respondents to promote the applicant on adhoc basis to the post of Upper Division Clerk (U.D.C. for short).

2. The respondents have filed the counter affidavit in which it has been stated that the meeting of D.P.C. in respect of the Group-C staff in the Military Farms department in the years 1989, 1990, 1991 and 1992 was held on 13.1.1992 and 21.4.1992. The applicant did not find a place in the panel for promotion to the post of UDC. It has been stated that this application is pre-mature, since the applicant did not seek redressal of his grievance by filing an appeal to the proper authorities. It has been further stated that conducting of yearwise

- 3 -

meeting of the D.P.C. is not a mandatory requirement, ~~if it~~ due to the administrative reasons, the holding of meeting of D.P.C. is delayed, the D.P.C. meeting when held, takes into account the yearwise vacancies and a consolidated panel is drawn up yearwise. Thus, there has been nothing wrong in holding D.P.C. meeting in the year 1992 ~~for~~ the yearwise vacancies of 1989, 1990, 1991 and 1992 and since the promotion was dependent on not only seniority but also on fitness, the applicant, not having been found fit could not be promoted.

3. The applicant has filed a rejoinder affidavit in which the contentions made in the original application have been reiterated.

4. The only substantive ground which has been taken by the applicant in ~~holding~~ ^{challenging} the D.P.C. proceedings is that the D.P.C. was held in wholesale manner clubbing the vacancies in the years 1989, 1990, 1991 and 1992 and under the rules, the D.P.C. should have made every year. In this regard, he has quoted Rule-(iii) of C.S.R. (1986 edition).

The rules quoted indicate that the D.P.C. should be convened at regular annual intervals with regard to the vacancies occurring during the course of the year. This, instruction would indicate that normally the D.P.C. meeting should be held at annual intervals. It is, also, however, clear that such instructions are not mandatory and merely because the D.P.C. meeting could not be held in a particular year, the proceedings of the D.P.C. in subsequent

15/4


years taking into account the vacancies in the ~~year~~ earlier years will not stand vitiated. We have seen from Annexure- A 1 to the O.A. that the D.P.C. has considered the vacancies yearwise and prepared separate ~~panels~~ in respect of each year and there-
-after consolidated the same. It has been averred by the respondents that the D.P.C. for the earlier years could not be convened due to administrative reasons. Though they have not specified what such administrative reasons were, it is not the case of the applicant that either no such reason existed or such reasons were not bonafide. We cannot, therefore, hold that the impugned proceedings of the D.P.C. are vitiated merely because there are certain administrative instructions making it desirable that the D.P.C. meeting are held at regular annual intervals. We ~~are~~, therefore, find nothing wrong procedurally in the impugned D.P.C. proceedings.

5. The respondents have averred that the applicant did not find place in the ~~panel~~. It is stated that promotion from L.D.C. to U.D.C. is by seniority-cum-fitness. The applicant has nowhere averred that his services have been totally without blemish and that his A.C.Rs were not adverse. In the absence of such averments, we cannot take a view that the D.P.C. had ~~erred~~ in omitting the applicant from the ~~panel~~.

wt.

- 5 -

6. In view of the foregoing, we find no merit in this case and the same is, therefore, dismissed. There will be no order as to costs.


Member (J)
(n.u.)


Member (A)