

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1828 of 1993

Allahabad this the 16th day of March, 2001

Hon'ble Mr.S.K.I. Naqvi, Member (J)
Hon'ble Maj.Gen.K.K. Srivastava, Member (A)

Anand Mohan Srivastava, Son of Sri Rama Shanker Lal Srivastava, aged about 45 years, R/o 134/129-C, Raj-rooppur Post, Dhumanganj, District Allahabad.

Applicant
By Advocate Shri O.P. Gupta

Versus

1. Senior Divisional Personal Office, In the Office D.R.M. Northern Railway, Allahabad.
2. Senior Divisional Electrical Engineer, Rolling Stock Operating, Northern Railway in D.R.M Office Allahabad.
3. Senior Divisional Electrical Engineer Rolling Stock Northern Railway, Electric Loco Shed, Fajalgaanj Kanpur.
4. Selection Committee through Divisional Personal Office, Northern Railway, Allahabad, in the Office D.R.M. Northern Railway, Allahabad.
5. Divisional Railway Manager, Northern Railway, Allahabad.
6. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.

Respondents

By Advocate Shri A.K. Pandey

O_R_D_E_R(Oral)

B66 Hon'ble Mr.S.K.I. Naqvi, Member (J)

A D.P.C. was held in March, 1993 to recommend for promotion to the post of Master

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Crafts Man in the respondents establishment. 41 candidates were considered, among whom the applicant was also one of the candidate at serial no.23. Only 39 candidates were recommended and the applicant was not recommended for this promotion. The promotion list was issued accordingly approving the recommendation of D.P.C. The applicant has grievance that junior to him have been selected and his claim has been ignored, for which he has come up before the Tribunal.

2. After exchange of pleading it has come to light that 3 adverse entries for the years 1989-90, 1991-92 and 1992-93 were in the C.R. of the applicant but they were communicated to the applicant vide letter dated 19.03.93, whereas the D.P.C. was held on 17th March, 1993 and 23rd of March, 1993. The case of the applicant is that he got prejudiced for non-communication of adverse entries within time as prescribed under rules, and, therefore, he could not make any representation against the same and suffered in his assessment by the D.P.C. It is also a case of respondents that the Departmental proceedings are pending against the applicant, but we find it proper to clear at this juncture that these proceedings were initiated on 12.04.93 i.e. after the sitting of D.P.C.

3. Heard learned counsel for the parties and perused the record.

4. We find that the D.P.C. considered the annual remarks for the years 1989-90, 1991-92 and 1992-93 when assessing the suitability of the applicant for promotion

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whereas these remarks were communicated to the applicant on 19.03.1993 and thereby affected adversely against the applicant before the same were matured. In the other words, affect of the adverse remarks shall be taken into consideration only after due opportunity of representation, if any, against the same. Sri A.K. Pandey, learned counsel for the respondents tried to justify the position but we are not convinced, besides it we are not able to understand as to why the adverse remarks pertaining to years 1989-90, 1991-92 were communicated only in March, 1993. Shri Pandey also cited the judgment of Hon'ble Supreme Court in '1998(3) S.C.C. page 452 Government of Tamilnadu Vs. K.N. Rathinavelu' and 2000 (8) S.C.C. page 395 Badri Nath Vs. Govt. of Tamilnadu', but we find that the same are not applicable in the present matter.

5. For the above, we quashed the recommendation, in respect of the applicant only, in the D.P.C. held in March, 1993 through which he has been assessed as candidate not suitable for promotion, and direct that the review D.P.C. be held within 4 months from the date of communication of this order taking into consideration the applicant's position as it stood in March, 1993, without taking into consideration the adverse remarks communicated to him in March, 1993, and if the applicant is found suitable for promotion, he be given due seniority and place above his juniors promoted as per recommendation by the 1993 D.P.C. and also be given other consequential benefits. The O.A. is disposed of accordingly. No order as to costs.

/M.M./

Member-A

Member-J