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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 421 OF 2000
Cuttack this the 4th day of May 2005

K.V.Ramana

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Applicant(s)

- VERSUS -

Union of India & Ors.

Respondent(s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? ✓
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? ✓

M.R. Mohanty
(M.R. MOHANTY)
MEMBER (JUDICIAL)

B.N. Som
(B.N. SOM)
VICE-CHAIRMAN

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 CENTRAL ADMINISTRATIVE TRIBUNAL
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ORIGINAL APPLICATION NO.421 OF 2000
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CORAM:

THE HON'BLE SHRI B.N. SOM, VICE-CHAIRMAN
 AND

THE HON'BLE SHRI M.R.MOHANTY, MEMBER (JUDICIAL)

Shri K.V.Ramana, 59 years,
 S/o K.V.L.Narasimha
 at present serving as Asst.Engineer,
 Khar da Road, S.E.Railway,
 Dist-Khurda

Applicant

By the Advocates

M/s. A.K.Mishra
 B.B.Acharya
 J.Sengupta
 P.R.J.Dash
 D.Panda
 G.Sinha

- VERSUS -

1. Union of India represented through its General Manager, S.E.Railway, Garden Reach, Calcutta-43
2. Chief Personnel Officer, S.E.Rly., Garden Reach, Calcutta-43
3. Shri N.Murty Nandi, C/o.Chief Project Manager, Nagpur, S.E.RLY., Nagpur
4. Shri T.V.R.J.Sharma, C/o.Chief Project Manager, S.E.Rly, Sambalpur
5. Shri G.Ramayya, Sr.A.E.N., S.E.Rly, Cuttack
6. Shri U.M.Vijayan, DEN, SE Rly, Nagpur

Respondents

By the Advocates

M/s. D.N.Mishra
 S.K.Panda

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 O R D E R

MR.B.N.SOM, VICE-CHAIRMAN: Aolicant (Shri K.V.Ramana) has approached this Tribunal in the 2nd round of litigation being aggrieved by the denial of his promotion to Senior Time Scale (Group-B) in the Railway Engineering Service.

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2. The facts of the case, shorn of details are that the applicant was given proforma promotion to the post of AEN (Group-B) against 70% vacancies with effect from 23.12.1993 (physically joined on 1.4.1994). His grievance is that soon thereafter two of his juniors v.z., V.M.Vijaya and G.Ramaya were considered by the D.P.C. in November, 1996 for adhoc promotion to Senior Time Scale, ~~which~~ did not consider him. Again, another D.P.C. met during December, 1997 where ~~his~~ his case was also not considered. Being aggrieved, he had approached this Tribunal in O.A.No.189/98 for redressal of his grievance. The Tribunal, after considering the facts and circumstances of the case, directed the Respondents to consider the case of the applicant for ad hoc promotion to Senior Time Scale on seniority basis, ignoring the adverse entries contained in his A.C.R. for the year 1996-97, as those were not communicated to him at all. Pursuant to this order dated 3.5.2000 passed by this Tribunal, the Respondents held a review D.P.C. for consideration of his case for promotion to the Senior Time Scale in preference to the panel approved by the General Manager on 7.11.1996. However, the D.P.C., after considering his performance did not recommend his case for inclusion in the said adhoc senior scale panel approved by the General Manager. He has, therefore, approached this Tribunal in this O.A. seeking a direction to be issued to the Respondents to promote him retrospectively to Sr.Scale from the date the private Res. 3 and 4 were so promoted.

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3. The Respondents-Department have filed a detailed reply in opposition of the O.A. Admitting the facts of the case, they have reiterated that in obedience to the order dated 3.5.2000 passed by this Tribunal in O.A.189/98, the case of the applicant was considered by the Review D.P.C. taking into account his performance as reflected in the five years' CRS upto the year 1995, but the D.P.C., after considering his performance did not recommend his case and accordingly, his representation dated 12.5.2000 was disposed of vide letter dated 16.6.2000. They have further submitted that a Government servant has a right to be considered for promotion, but does not have any right to promotion. Since the applicant was not selected based on his overall performance as reflected in his ACRs for the last five years, he has no right/claim for promotion to senior scale. The Respondents have, therefore, asserted that the allegations levelled by the applicant are baseless and deserves to be rejected.

4. We have heard the learned counsel for the parties and have also perused the records placed before us. The applicant had also filed a rejoinder, wherein he had contested that on the basis of the performance in the ACRs, he could not have been found below the bench mark for inclusion of his name in the panel of senior scale officers. Accordingly, we had called ^{for} the minutes of the DPC as well as the Dy. Chief Personnel Officer of the Respondents-Department ~~to render assistance to the Tribunal.~~ We found that the review DPC had assessed five years' ACRs of the applicant from the year 1991-92 to 1995-96. Our notice was also drawn to the procedure

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for promotion of Group A officer to Senior scale
vide Ministry of Railways (Railway Board letter
No. E(GP)/85/1/16 dated 21.3.1990 and E(GP)85/1/48
dated 19/31.12.1985. According to the said instruc-
tions, the DPC should categorize officers as 'fit'
or 'not yet fit' for adhoc promotion on the basis
of overall assessment of the report and entirely on
the basis of grading 'fitness' assigned therein.
The Bench mark for such promotion should not be less
than 'good'. From a perusal of the records, of the ACRs
for the five years(as referred to above), we find
that the applicant had three years' service in the
non-Gazetted post and two years' service in the
Gazetted post and on the overall assessment of the
applicant during these years under various aspects,
the DPC had come to the conclusion that he was ~~2~~
below the bench mark of 'good'. We have also perused
the ACRs of the applicant ~~for~~ these years and we
are unable to persuade ourselves to take a contrary
view. That being the fact of the case, we see no
reason to interfere with the findings of the review
DPC, which is an expert body for the purpose of
preparing panel for promotion. We are also satisfied
that due objectivity was maintained in the matter of
assessment and therefore, we see no reason to interfere
in the matter. In the result, the O.A. fails. No costs.

10/04/05
(M.R. MOHANTY)
MEMBER (JUDICIAL)

BJY

10/04/05
(B.N. SOM)
VICE-CHAIRMAN