

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

No.0A 686/97

Date of order: 5.10.2004

Present : Hon'ble Mr. Sarweshwar Jha, Member (A)

Hon'ble Mr. Mukesh Kumar Gupta, Member (J)

J.P. Sharma

Applicant

v.

Ministry of Labour and others Respondents

For the applicant : Mr.B.Chatterjee

For the respondents : Mr.M.S.Banerjee

O R D E R

Per Mukesh Kumar Gupta, Member (J)

1. Shri J.P. Sharma, who attained the age of superannuation on 30.6.1997 in this application seeks a direction to the respondents to call at once the DPC for considering him for promotion to the next higher grade of Deputy Director General (Mines Safety) with retrospective date i.e., 1.6.1996 with consequential benefits. It is stated that two posts in the next higher grade fell vacant on 1.2.1996 and 1.6.1996 respectively but no steps were taken by the respondents to convene the DPC and consider him for the said post in accordance with rules and instructions on the subject despite the fact that the applicant had clean and spotless service record which would make him eligible for the said promotional post. The respondents' inaction to convene the DPC has seriously prejudiced him and is violative of Article 14 of the Constitution.

2. The respondents in their reply opposed the said claim of the applicant stating that three vacancies in the grade of DDG (Mines Safety) fell vacant on 1.2.1996, 31.5.1996 and 28.2.1997 respectively.

However, in June 1995 two posts in the said grade were abolished but the Ministry of Finance took up the matter, and ultimately Cabinet Secretariat vide communication dated 30.5.1997 conveyed the approval for revival of two aforesaid posts. Immediately thereafter DPC was held in UPSC on 22.7.1997 and as the applicant had already retired on attaining the age of superannuation with effect from 30.6.1997 his name was not considered for promotion.

3. We have heard learned counsel appearing for the parties and perused the pleadings.

4. The only question which needs to be determined is whether the applicant had any right for promotion and also there was any deliberate inaction on the part of the respondents in not filling the said posts.

5. On bestowing our careful consideration to the facts as noted hereinabove as the two posts which were abolished in June 1995 were revived only vide communication dated 30.5.1997 and the applicant retired soon thereafter on 30.6.1997 and particularly keeping in view the fact that the DPC was held on 22.7.1997, we do not find any justification to direct the respondents to consider & promote him to the said post particularly without insisting holding of DPC as prayed. As the applicant has already retired and no prejudice has been caused to him, we do not find justification in acceding to the request of the applicant.