

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

NO. O.A. 1032 OF 97

PRESENT: HON'BLE MR. B.V. RAO, JUDICIAL MEMBER
HON'BLE DR. A.R. BASU, ADMINISTRATIVE MEMBER

Sri Khagendra Chandra Mullick

VS.

1. Union of India, service through Director General, Geological Survey of India, 27, Jawaharlal Nehru Road, Calcutta-16.
2. Dy. Director General (Geology), Geological Survey of India, Eastern Region, Salt Lake, Calcutta-64.
3. Sr. Administrative Officer, Geological Survey of India, Salt Lake, Calcutta - 64.
4. Chairman, D.P.C. for Group 'C' & 'D' posts of Director General, Geological Survey of India, Calcutta -16.
5. Sri Baiju N. Chowdhury, Hd. Mech., G.S.I., Calcutta.

For the Applicant : Mr. A.K. Bairagi, Counsel

For the Respondents : Ms. U. Sanyal, Counsel

Heard On: 16.1.2006

Date of Order: 6.2.06

ORDER

PER MR. B.V.RAO, J.M.:-

Sri Khagendra Chandra Mullick has filed this application under Section 19 of the Administrative Tribunal Act 1985 seeking the following reliefs:-

- "A) To direct the respondents to the Post of Head Mechanic at least from the date (20.4.1990) his junior (P. Respd't) has been promoted as Head Mechanic and grant all consequential benefits;
- B) Cost of the suit and any other order as the Tribunal deems fit."

2. The brief facts of the case is that the applicant was initially appointed on 10.12.71 in Geological Survey of India, Calcutta and thereafter he was promoted to the post of Mechanic (Group-'C'). Since an adverse remark was recorded in ACR for the year 1988, the applicant made a representation to the authorities but the same was turned down. Subsequently, the applicant preferred an appeal to the Director General, G.S.I. since the said appeal was not disposed of by the Director General,



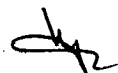
G.S.I., the applicant had to approach this Tribunal by filing O.A. 1033 of 1991, which was disposed of by this Bench by order dated 14.11.1996 with the following direction:-

“.. the appellate authority who is the Director General, G.S.I. shall dispose of the appeal petition filed by the applicant on 24.5.90 within a period of two months from the date of communication of this order by passing a detailed speaking order thereon...”

The copy of the said order was annexed as Annexure-A/1.

In pursuance of the Tribunal's order dated 14.11.1996, the Director General, G.S.I., after giving personal hearing to the applicant, passed a speaking order dated 16.7.97 upheld the views and remarks made by the officials in the ACR for the year 1988 and also the order of supersession in promotion. The said order was annexed as Annexure-A/2 of the application. Thereafter, by memorandum dated 3.4.97, applicant was promoted as Head Mechanic vide Annexure -A/3. The applicant submitted a representation to the authorities for non-consideration of his candidature to the post of Head Mechanic according to the seniority whereas the private respondent being junior to the applicant had been given promotion to the post of Head Mechanic superseding the applicant's claim vide Annexure-A/4. Being aggrieved with the action of the respondents in not considering his case for promotion as per seniority, the applicant filed this instant O.A. to ventilate his grievance.

3. Respondents have contested the matter by filing reply. The main contention of the respondents is that the Private Respondent No.5, Sri B.N. Choudhury, had been promoted to the post of Head Mechanic w.e.f. 21.1.91 on the basis of the recommendation of the DPC held on 19.2.1990 & also Review DPC held on 12.4.1990 as S.C. candidate against S.C. Vacancy and respondents further submitted that DPC did not recommend the name of the applicant for promotion to the post of Head Mechanic on examination of the C.R. dossiers of the applicant. The respondents further contends that in the light of the comments of the Dy. Director General, G.S.I., E.R. the review D.P.C. was held on 12.4.90 against the finding of the earlier D.P.C. dated 19.2.90 for re-examination of the C.R. dossiers in respect of the applicant but that time the review DPC did not recommend the name of the applicant



for promotion to the post of Head Mechanic and accordingly the private respondent, who is junior to the applicant was promoted as Head Mechanic against the S.C. quota at point No.8 of 40 point Roster as per recommendation of the D.P.C. held on 19.2.90 and also review D.P.C. dated 12.4.90. Respondents further submits that the name of the applicant was again placed when the point No. 14 of the Reservation Roster reserved for S.C. was proposed to be filled up among the eligible S.C. Candidates and accordingly, the D.P.C. held on 22.8.94 and 25.8.94 but the DPC did not recommend the name of the applicant for promotion to the post of Head Mechanic on examination of the performance of officials concerned as recorded in the C.R. and that time the name of the applicant was dropped and his Junior Sri Manoj Kr. Sarkar, S.C. candidate was promoted against S.C. vacancy at point No.14. Respondents further submits on the recommendation of the D.P.C. held on 25.3.97, applicant was promoted to the post of Head Mechanic on 7.4.97 against U/R vacancy as per seniority-cum- fitness. The applicant, who belongs to S.C. quota could not be promoted to the post of Head Mechanic against S.C. quota earlier as per finding/observation of the D.P.C. held in the years 1990 and 1994 respectively. In view of the facts and circumstances of the case, the respondents prayed this Hon'ble Tribunal to dismiss the O.A.

4. Heard Ld. counsel for both the parties.
5. Ld. counsel for the applicant argued that the action of the authorities concerned to supersede the claim of the applicant for promotion to the post of Head Mechanic by a junior is wholly bad in law and without justification. The ld. counsel for the applicant submits that the respondents authorities violated the rules and regulations and principles of natural justice in the process of giving promotion to the applicant as Head Mechanic. Ld. Counsel for the applicant contends that due to the malafide action of the respondents, applicant deprived of his promotion and also loosing next higher promotion and seniority and other benefits. Ld. counsel for the applicant repeatedly submitted that the respondent authorities failed to consider the case of the applicant in a proper way in the process of giving promotion and the respondent authorities denied the applicant's legitimate right as promotion to Head Mechanic on

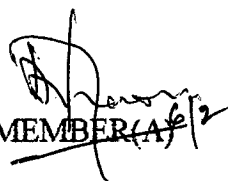


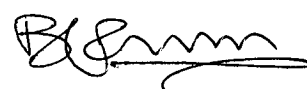
the basis of alleged ACR. In view of the facts and circumstances of the case, Id. counsel for the applicant prayed this Hon'ble Tribunal to allow the O.A.

6. We have carefully gone through the pleadings and materials placed before us and we have carefully considered the submissions of both the parties.

7. We have seen that the applicant's name was not recommended by the D.P.C. in earlier two occasions and the applicant preferred an appeal to the Director General of G.S.I. in respect of remarks in ACR dossiers and the appellate Authority i.e. Director General, G.S.I. rejected the appeal by upholding the entries made in the ACR and it is a fact that the speaking order dated 16.7.97 of the appellate authority was not challenged by the applicant before any forum and subsequently the applicant's name was considered and recommended by the DPC and he got promotion on 7.4.97. It is a fact that due to the remarks in ACR, DPC did not consider and recommend the applicant's name in the earlier two occasions. Applicant without challenging the appellable order in respect of remarks in ACR is challenging the seniority list as well as the junior's promotion which is not sustainable under law. Therefore, we do not find any merit in the application and is accordingly dismissed.

No order as to costs.


MEMBER(A) 2


MEMBER(J)