

(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD
Bench - Lucknow.

C.A No. 308 of 1990 (L)

Subhash Chandra Sharma.....,..... Applicant.

Versus

Union of India and others.....,..... Opp. Parties.

Hon'ble Mr. Justice U.C. Srivastava - V.C.

Hon'ble Mr. A.B. Gorthi (Member- A).

(By Hon'ble Mr. Justice U.C. Srivastava - V.C.)

Feeling aggrieved from his supersession to the next higher post of Director (Geology) which according to him to be Junior, the applicant has approached this Tribunal, praying relief against the same.

2. The applicant was initially appointed Geologist (Junior) Class I in the Geological Survey of India in the year 1965 through Union Public Service Commission and was promoted to the next higher post filled by the Director. in the Pay scale of Rs. 3700-5000. In the recruitment year 1988 there were 19 vacancies in the said post which were recruitable to the selection committee. Although there are no statutory rules in the Department, but the selections were made by the Departmental Promotion Committee. The applicant was also said to ~~him~~ to be considered by the departmental Promotion Committee, but the departmental Promotion Committee did not recommend to the applicant and recommended the name of juniors,

respondents no. 3 to 5. The applicant came to know of the same and made communications asking the reasons for the same, but no reply for the same was given. Thereafter he made representation detailing his achievements and his good work. The applicant as has also been stated by him in this application stated that he worked hard in the service and during the first three years he was entrusted with independent assignment which included major construction Project like Koxna. He was sent for advance studies in Geothermics in the year 1976 for 9 months in Italy for which he exclusively completed the course. In his second representation, applicant apart from narrating all the achievements including one which has been stated earlier, stated that there was nothing adverse against him except communication pertaining to his annual confidential report of the year 1984 and 1986 which should not have been taken as adverse remark by the Departmental Promotion Committee and it appears that D.P.C. has taken it as adverse remarks. The remarks given to the applicant read as under:-

" While reviewing your confidential
for the year ending 31.3.1987 by the
Director General, G.S.I., it is observed

Contd.....3.

that " Ability to express: he has average ability in expressing himself; General Assessment; Intelligent and hard-working he is a very good field officer with robust health. Tends to be impatient at times."

You are, therefore, advised to improve your performance in this regard. The above remarks are brought to your notice as an advice for improvement and not to treat the same as adverse remarks."

The contention on behalf of the applicant that this has been taken as adverse remarks as such and further when before the D.P.C. the applicants' achievements were not raised with the result that the applicant's achievements were not raised with the result, the applicant was not graded to ~~junior~~ ^{fairing} and in the matter of consideration this adverse remarks and the gradation and consideration of all such achievements, Departmental Promotion Committee did not follow the departmental instructions issued in this behalf. On behalf of the respondent it has been contended that the Tribunal cannot ~~set~~ ^{not} in the judgment over the assessment made by the Departmental Promotion committee which ~~was~~ ^{had an} over all assessment of all candidate before it and those who were graded and promoted and the applicant's contentions have also been refuted. The learned counsel contended that the applicant has no basis for saying that the remarks as taken has the adverse remarks and his achievements were not considered. As a matter of fact the D.P.C. should asses the suitable

Officers for promotion on the basis of their service record with particular references for five preceedings years. In case the required qualifying service is more than five years, the Departmental Promotion Committee should see the records with the particular reference to the Character Rolls for the years equal to the required qualifying service and the contention made by the applicant is not correct.

There is no such allegation that the Departmental Promotion Committee was biased against the applicant or that it was out ~~to~~ to favour others who were selected. There is no evidence of malice or malafide. All this has been said by the applicant appears to be fabricated. Over all assessment was made by the Departmental Promotion Committee. It is difficult to accept that the achievements of the applicant were not considered by the D.P.C. or that it viewed the confidential report remarks which were advisory, as advise and as such we do not find any ground to interfere in the selection so made. However, although we dismiss this application, we do so with the observation that when-ever the D.P.C. assembles again the D.P.C. will taken into consideration so called adverse remarks as advisory in nature and will consider the achievements made by the applicant as has been stated in his representation

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(PAC)

This application is dismissed. There is no order
as to the costs.

Member (A)

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Vice Chairman.

Dt: January 27, 1992.

(DPS)