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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH, CAMP AT NAGPUR.

Original Application No.352/89.

Shri P.S.Dhotkar. ①Applicant.

W/s.

Union of India & Ors.Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,
Hon'ble Shri M.R.Kolhatkar, Member(A).

Appearances :-

Applicant by Shri S.V.Gole.
Respondents by Shri R.P.Darda.

Oral Judgment:-

¶ Per Shri M.S.Deshpande, Vice-Chairman ¶ Dt. 5.1.1994①

The only substantial challenge in this petition is the deprivation to the applicant of the earlier date of appointment and the benefits flowing there from viz. 1.4.1987 when the benefit should have been given to him up to 25.8.1988 when he came to be promoted to the post of Senior Accountant.

2. The applicant was working as a Junior Accountant upto 25.8.1988. Eighty per cent of the posts of Junior Accountants were to be upgraded. When the list of candidates for upgradation was drawn up firstly on 23.1.1987 the applicant's name did not figure in it though he was at Sl. No.195 and persons junior to him were found suitable for the upgraded post. The applicant's grievance is that one Ms. Naidu who was junior to him also did not figure in the first list of the candidates who were found fit for promotion, but she made a representation and that her first representation was rejected, her later representation was accepted and she came to be promoted. The applicant thereafter made a representation though his earlier representations dt. 8.12.1987 and 24.3.1988 came to be rejected respectively

on 8.1.1988 and 8.4.1988. There was no reply to the representation which was made after the upgradation was granted to Ms. Naidu and the applicant after waiting for a certain period filed the present application on 9.5.1989. The submission on behalf of the applicant was that since the upgradation was to take place from 1.4.1987 ACRs for ~~only~~ three years should have been considered by the DPC and stale reports could not have gone into consideration. We inquired from Shri Darda, the learned counsel for the Respondents if there was any record to show what norms the department had set up for evaluation of the fitness of the candidates because the test was seniority-cum-fitness. But the learned counsel was not in a position to point what were the norms set up and for which preceding years the CRs were to be taken into consideration. It was pointed out on behalf of the applicant that in respect of certain candidates who were selected, ACRs for only three years could have been taken into consideration because they had come into the feeder cadre in January, 1984. The Respondents made available to us the ACRs of the applicant for the entire period and we find that the CRs for the years 1983-84, 1984-85 and 1985-86 showed that the performance of the applicant was good and the Reporting Officer had found the applicant fit for promotion. Similarly, also for the year 1986-87 there was nothing adverse and the remark was that the applicant was fit for promotion. The noting of the DPC shows that there were adverse entries in the CRs and no vacancy need kept reserved for him. It is not clear from the DPC's notings which CR they had in mind for depriving the applicant of the upgradation. In the absence of any record to show that CRs for a period exceeding 3 years

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preceding the upgradation were to be taken into consideration, we find that the DPC was not entitled to hold against the applicant the stale ACR when in the case of others only 3 years ACRs were taken into consideration for assessing the suitability of the candidates for upgradation.

3. We would have normally asked a Review DPC to be held by directing it to ignore the CRs for the period preceding 3 years immediately before the relevant date. In this case the applicant had made representations ~~as~~ earlier and they were rejected. He had filed an appeal to the Post Master General, but the appeal was not decided. It appears from Annexure A-6 that the applicant had been held at the Efficiency Bar for the adverse entry for the year 1982-83. The applicant had been adequately dealt with for the ~~at~~ adverse entry and since there had been positive improvement in the efficiency of applicant rendering him for promotion, it was entirely inappropriate and inequitable to deny the upgradation to him. In the circumstances we find that no useful ~~purpose~~ would be served by directing a Review DPC to be held in the present case.

4. We would therefore, allow the application and direct the Respondents to restore the seniority to the applicant on the basis that he had been found ~~suitable~~ and was actually promoted w.e.f. 1.4.1987. The financial benefits accruing from this direction from 1.4.1987 to 24.8.1988 shall also be paid to the applicant within two months from the date of receipt of the copy of this order.

M.R. Kolhatkar
(M.R. KOLHATKAR)
MEMBER(A)

M.S. Deshpande
(M.S. DESHPANDE)
VICE-CHAIRMAN