

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 432/2000

Date of Decision : 30/1/2004

D.Tolani _____ Applicant

Ms.D.Fernandes for
Shri Suresh Kumar _____ Advocate for the
Applicant.

VERSUS

Union of India & Ors. _____ Respondents

Shri V.G.Rege _____ Advocate for the
Respondents

CORAM :

The Hon'ble Shri A.K.Agarwal, Vice Chairman

The Hon'ble Shri Muzaffar Husain, Member (J)

- (i) To be referred to the reporter or not ?
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ?
- (iii) Library

X



(A.K.AGARWAL)
VICE CHAIRMAN

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.432/2000

Dated this the 30th day of Jan 2004.

CORAM : Hon'ble Shri A.K.Agarwal, Vice Chairman

Hon'ble Shri Muzaffar Husain, Member (J)

Dewandas Tolani,
Dy.Control Officer,
India Security Press,
Nasik Road.

...Applicant

By Advocate Ms.D.Fernandes
for Shri Suresh Kumar

vs.

1. Union of India
through the Secretary,
Ministry of Finance,
Dept. of Economic Affairs,
North Block,
New Delhi.

2. The General Manager,
India Security Press,
Nasik Road.

3. Shri S.P.Kulkarni,
Control Officer,
India Security Press,
Nasik Road.

...Respondents

By Advocate Shri V.G.Rege

O R D E R

{Per : Shri A.K.Agarwal, Vice Chairman}

This OA. has been filed by Shri Dewandas Tolani, Dy.Control Officer, India Security Press being aggrieved by his supersession for the post of Control Officer, India Security Press.

2. The main facts of the case are as follows. The applicant joined India Security Press as Control Assistant on 14.2.1968 and was promoted as Assistant Inspector Control in November, 1970. He was promoted as Inspector Control on a regular basis in November, 1975. The applicant was promoted as Dy.Control Officer (Group-B Gazz.) on an adhoc basis w.e.f. 13.2.1990. Thereafter, he was promoted as Deputy Control Officer on a regular basis w.e.f. 18.1.1991. According to the applicant, he was never superseded by his juniors at any stage at the time of all these promotions. The applicant has further mentioned that right from the time of his promotion as Deputy Control Officer in February, 1990, he has not received neither any communication of adverse remarks nor any chargesheet. The applicant has stated that with such a record, his supersession for the post of Control Officer is highly unjustified and needs to be rectified.

3. The applicant in his OA. has also mentioned that to the best of his knowledge his ACRs are meeting the requisite Bench Mark and therefore his supersession by a junior officer who became Deputy Control Officer in October, 1994 is highly unfair.

4. The learned counsel for the applicant has mentioned that the reason given in the reply of respondents for the supersession of the applicant is not at all convincing. In the case of Shri V.B.Malve, he is stated to be senior to the applicant which is not denied. On the other hand, in the support of Shri S.P.Kulkarni, it is stated that he was adjudged as "Very Good" by the DPC while the applicant was given grading of "Good". According to the learned counsel of applicant if Shri Kulkarni was "Outstanding" or Meritorious, he should have superseded Shri V.B.Malve also. Therefore, to give the benefit of seniority to Shri Malve and deny the same to the applicant is totally unfair. The learned counsel for the applicant also cited following rulings :-

- (a) U.P.Jal Nigam & Ors. vs. Prabhat Chandra Jain & Ors.
(1996) 33 ATC 217.
- (b) Dr.Binoy Gupta vs. The Union of India & Ors.
2002 (3) ATJ 7.
- (c) I.Raju vs. Chairman & Managing Director, BSNL, New Delhi & Ors.
1997-2001 A.T.Full Bench Judgements 411.

5. It was argued before us that a remark, which on the face of it may not be adverse, but if it is below Bench Mark has to be communicated. In the absence of any such communication, the grading given by the DPC to the applicant is not sustainable.

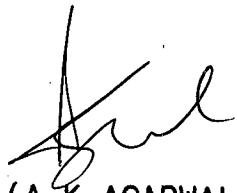
6. The learned counsel for the respondents mentioned that the meeting of the DPC was held on 22.2.1999 and as per the DOPT guidelines for promotion in force at that time, all the officers graded as "Outstanding" would en bloc be placed senior to those graded "Very Good" and similarly all officers graded as "Very Good" senior would be placed above the one graded as "Good". The Bench Mark for promotion in question was "Good". However, the DPC held under the Chairmanship of a Member, UPSC graded Shri V.B.Malve and Shri S.P.Kulkarni as "Very Good" and the applicant as "Good". Thus, V.B.Malve has been recommended not only because he was senior to the applicant but on account of receiving a higher grading from the DPC. Since out of the two graded as "Very Good" V.B.Malve was senior, he was kept at number one and S.P.Kulkarni at number two. Responding to the points made by the learned counsel for the applicant regarding the rulings of the Supreme Court in U.P.Jal Nigam Board, he said that since the Bench Mark required was "Good", it can not be said that the applicant had ACRs having remarks below the Bench Mark and there was a need to be communicate the same.

7. After hearing the arguments of both the counsels, we have also seen the minutes of the meeting of the DPC held on 22.2.1999 and notice that two recommended officers have been graded as "Very Good" and the applicant is "Good". We do not see any reason for going into the details of the assessment made by the DPC which is headed by a Member, UPSC.

8. In view of the facts indicated above, we are convinced that no injustice has been done to the applicant. The promotions made to the post of Control Officer are absolutely according to the laid down rules and after following due procedure. The impugned order, therefore, does not suffer from any legal infirmity. The OA. deserves to be dismissed and is dismissed accordingly. No order as to costs.


(MUZAFFAR HUSAIN)

MEMBER (J)


(A.K. AGARWAL)

VICE CHAIRMAN

mrj.