

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex (BDA)
Indiranagar
Bangalore - 560 038

Dated : 9 AUG 1988

APPLICATION NO. 877 / 88(F)

W.P. NO.

Applicant(s)

M. Dwarakanath

To

1. Shri M. Dwarakanath
Stenographer Grade III
Defence Food Research Laboratory(DFRL)
Mysore - 570 011
2. Shri M.R. Shylandra
Advocate
869-C, V Block
Rajajinagar
Bangalore - 560 010
3. The Director
Defence Food Research Laboratory(DFRL)
Mysore - 570 011
4. Shri V. Srikantamurthy
Stenographer Grade II
Defence Food Research Laboratory(DFRL)
Mysore - 570 011

Respondent(s)

V/s The Director, DFRL, Mysore & 3 Ors

5. The Superior Reporting Officer
P & C Division
Defence Food Research Laboratory(DFRL)
Mysore - 570 011
6. The Reporting Officer
P & C Division
Defence Food Research Laboratory(DFRL)
Mysore - 570 011
7. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/ADAM/INTERIM ORDER
passed by this Tribunal in the above said application(s) on 4-8-88.

Encl : As above

dc

DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 4TH DAY OF AUGUST, 1988

Present: Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman
and
Hon'ble Shri P. Srinivasan, Member (A)

APPLICATION NO. 877/ 1988

Shri M. Dwarakanath,
Major,
Stenographer, Grade III,
Defence Food Research Laboratory
(DFRL), Mysore.

.... Applicant.

(Shri M.R. Shylendra, Advocate)

v.

1. The Director,
Defence Food Research
Laboratory (DFRL),
Mysore.

2. V. Srikantamurthy,
Major, Stenographer Gr. II,
D.F.R.L. Mysore.

3. Superior Reporting Officer,
P & C Division,
DFRL, Mysore.

4. Reporting Officer,
P & C Division,
D.F.R.L. Mysore.

.... Respondents.

(Shri M. Vasudeva Rao, C.G.A.S.C.)

This application having come up for hearing to-day,

Shri P. Srinivasan, Hon'ble Member (A), made the following:

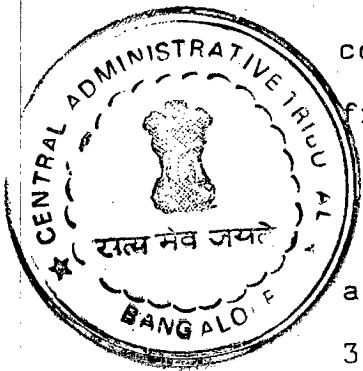
ORDER

In this application made under Section 19 of the
Administrative Tribunals Act, 1985, the applicant who is
working as a Stenographer in the Defence Food Research
Laboratory (DFRL), prays that order dated 30.6.1987
passed by the Director, DFRL, rejecting his appeal against
the adverse remarks recorded in his confidential report
for the year 1981 be set aside and his case for promotion
to higher posts considered on that basis.

P.S. - 15



2. This application has a history behind it. An earlier application (A.No.1269/86) was filed by this applicant challenging the adverse remarks in his character roll for 1981 and the order in appeal rejecting his representation against those adverse remarks. At that stage, this Tribunal found that the order passed by the appellate authority (AA) was not a speaking order. Therefore, by judgment dated 27.3.1987, disposing of A.No.1269/86, this Tribunal directed the AA to restore the appeal to his file and to dispose of it in accordance with law, after giving the applicant an opportunity of being heard. In compliance with this order, the AA heard the applicant and passed a fresh order in appeal dated 30.6.1987, again rejecting the applicant's representation against the adverse remarks. It is this order which is now challenged in this application, with a consequent prayer that if the appellate order is set aside, the applicant be considered afresh for promotion to the next higher post from 1982.



3. Shri M.R. Shylendra, learned counsel for the applicant, submitted that even the present order dated 30.6.1987 passed by the AA is not a speaking order in spite of its length. The applicant has also submitted a written brief on this subject. Shri Shylendra, therefore, submitted that the impugned order of the AA be quashed and the case of the applicant for promotion to higher posts considered ignoring the adverse remarks.

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4. Shri M. Vasudeva Rao, learned counsel for the respondents, submitted that the AA, after hearing the applicant, had passed a speaking order, dealing with every contention raised by the applicant in the appeal. Therefore, the order in appeal rejecting the applicant's representation against the adverse remarks was a speaking order, and cannot be challenged on this ground. Once the adverse remarks are confirmed in appeal, the question of reconsidering the applicant for promotion w.e.f. 1982 does not arise, because the adverse remarks considered by the original DPC while passing over the applicant for promotion in 1982 stand confirmed.

5. Having considered the rival contentions carefully, we are of the view that this application deserves to be dismissed. We have perused the order of the AA which, in our opinion, is a speaking order. He has dealt with each of the objections of the applicant, and has recorded his views thereon, and on that basis, he has rejected the appeal of the applicant. No malafides or animus has been urged by the applicant against the AA. That being so, we do not consider it fit to interfere with the decision of the AA. In that view, we agree with Shri Rao that there is no case for a fresh consideration of the applicant for promotion with effect from 1982. In view of this, the application has to be dismissed.

6. The application is dismissed. Parties to bear their own costs.



TRUE COPY

B. A. Venkatesh Rao
DEPUTY REGISTRAR (JULY 1982)
CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

Sd/-

VICE-CHAIRMAN 4/81/82

Sd/-

MEMBER (A)