

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: GULESTAN BUILDING
6, PRESCOT ROAD, MUMBAI - 400 001
ORIGINAL APPLICATION No.237/1994

WEDNESDAY, THIS THE 8TH DAY OF JULY, 1999

SHRI JUSTICE S. VENKATARAMAN .. VICE CHAIRMAN
SHRI S.K. GHOSAL .. MEMBER (A)

S. Chellappan Chettiar,
Upper Division Clerk (TES Branch),
College of Military Engineering,
Dapodi, Poona - 411 031. .. Applicant

(By Advocate S.P. Saxena)

Vs.

1. Union of India, through the
Secretary, Ministry of Defence,
DHQ P.O., New Delhi 110 011.
2. The Engineer In chief,
Kashmir House, DHQ PO,
New Delhi 110 011.
3. The Commandant,
College of Military Engineering,
Dapodi, Poona 411 031.
4. Maj.General Shri T.M. John,
Commandant, College of Military
Engineering, Dapodi,
Poona 411 031. .. Respondents

(By Standing Counsel Shri R.K. Shetty)

ORDER

Justice S. Venkataraman, Vice Chairman :

The applicant who was working as an U.D.C. was selected for the post of Office Superintendent Gr.II by the DPC which was held in February/March, 1993. The

second Respondent, on the basis of the recommendation of the DPC, by order dated 21.5.1993 (Annexure-A4) promoted the applicant as Office Superintendent Gr.II with effect from 1.6.1993. According to the applicant, he was asked to relieve one Mrs. Anand, Office Superintendent Gr.II, who was to retire on 31.5.1993 and that he also took over the work. But, before the order of promotion could come into force, the 2nd Respondent, by intimation dated 29.5.1993, kept the order of promotion under abeyance. The applicant gave a representation in that regard and the Respondent by Annexure-A3, dated 21.1.1994, intimated him that because the DPC had not followed the prescribed procedure and had recommended the applicant who was far junior for being promoted overlooking many seniors who were to be promoted as per the norms prescribed in that regard, a Review DPC has been ordered. The applicant has challenged the steps taken by the Respondents to hold a Review DPC.

2. The Respondents' case is that as per the procedure prescribed for selection by O.M. No.F.22011/5/86-Ettt.(D), dated 10.3.1989, the DPC had to follow the procedure indicated in para 2.3.1. which reads as hereunder.

2.3.1. The list of candidates considered by the DPC and the grading assigned to each candidate, would form the basis for preparation of the panel for promotion by the DPC. The following principles should be observed in the preparation of panel:-

(i) Having regard to the levels of the posts to which promotions are to be made, the nature and importance of duties attached to the posts a bench mark grade would be determined for each category of posts for which promotions are to be made by selection method. For all Group 'C' Group 'B' and Group 'A' posts upto (and excluding) the level of Rs. 3700-5000 excepting promotions for induction to Group 'A' posts or Services from lower groups, the bench mark would be 'Good'. All officers whose overall grading is equal to or better than the bench mark should be included in the panel for promotion to the extent of the number of vacancies. They will be arranged in the order of their inter-se seniority in the lower category without reference to the overall grading obtained by each of them provided that each one of them has an overall grading equal to or better than the bench mark of 'Good'.

3. It is the Respondents' case that though in the DPC many seniors had attained the bench mark of 'Good', still the DPC had overlooked them and recommended the name of the applicant only on the ground that he had been graded as 'Outstanding' and that this was contrary to the prescribed procedure and that as such, it has become necessary to conduct a Review DPC.

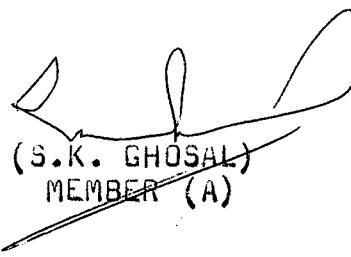
4. It is not disputed by the applicant that some of the seniors had secured the bench mark in that DPC. In fact, the learned counsel for the Respondents has produced the proceedings of the DPC in question and we find that some seniors have secured grading 'Very Good' and some have secured 'Good'. The applicant who was the juniormost, however, got the grading 'Outstanding'.

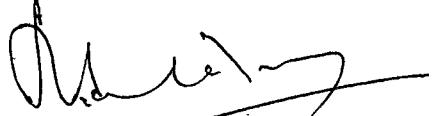
5. The main contention of the learned counsel for the applicant is that when the applicant had secured 'Outstanding' grading, if he is not considered for selection, it would act as an disincentive for the employees to achieve high standard of efficiency in work, that when in respect of promotion to Group 'A', candidates securing 'Outstanding' will have to be placed above those who get lower grading such as, Very Good and Good and irrespective of the seniority, candidates securing 'Outstanding' will have to be selected, there is no justification for not adopting the same procedure with regard to the selection to Group 'C' and Group 'B' posts. He contended that this is a discrimination which is arbitrary and that as these guidelines are not sacrosanct, the Tribunal can interfere ~~in~~ the same.

6. We are unable to agree with the contention ~~that~~ the Government should have prescribed similar procedure for selection to Group 'A' as well as Group 'B' and 'C' posts. Group 'A' posts definitely stand on a different footing and the duties and responsibilities of Group 'A' officers are more onerous and prescription of higher standard in selection for Group 'A' posts and prescribing a lesser standard for selection to Group 'B' and 'C' posts cannot be said to be either arbitrary or discriminatory. The arguments that if a candidate having 'Outstanding' grade is not selected, it would act as an disincentive is not tenable. The administration ~~mix~~ while

prescribing the procedure, should not only take into consideration the incentives to be given for good work, but, at the same time, should also ensure that seniors ~~who are~~ ^{with} good at their work are not superseded by far juniors on the basis of their securing Outstanding grading, thereby affecting the morale of the senior officers. In the circumstances, the action of the Respondents in not implementing the recommendation of the DPC which had overlooked the prescribed procedure is fully justified and we cannot interfere with that action.

7. For the above reasons, this application fails and the same is dismissed. No costs.


(S.K. GHOSAL)
MEMBER (A)


(S. VENKATARAMAN)
VICE CHAIRMAN

osp.