

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A.No.513/94.

Dated this 30th Day of May, 2002.

Coram : Hon'ble Shri S.L. Jain, Member (J)
Hon'ble Smt. Shanta Shastry, Member (A).

Chandra Kumar Mishra,
Deputy Chief Engineer
(Construction) II
Metropolitan Transport
Project (Construction),
Churchgate, Mumbai. Applicant.

(By Advocate Shri R. Ramamurthy).

Versus

1. Union of India, through
The Secretary,
Ministry of Railway,
Railway Board, Rail Bhavan,
New Delhi.
2. Chairman,
Railway Board,
Ministry of Railway,
Rail Bhavan,
New Delhi.
3. Member (Engineering)
Railway Board,
Ministry of Railway,
Rail Bhavan,
New Delhi.
4. The General Manager,
Central Railway,
Bombay VT, Bombay.
5. The Chief Administrative Officer
(Construction), Central Railway,
New Administrative Building,
Bombay V.T., Bombay. Respondents

(By Advocate Shri S.C. Dhawan).

ORDER
{ Per : Shri S.L. Jain, Member (J) }

This is an application under Section 19 of the
Administrative Tribunals Act 1985 seeking the

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following reliefs:

"(a) that the Respondents be directed to promote the Applicant to Senior Administrative Grade, scale Rs.5900-6700 (RPS) from the date that the Applicant's immediate junior Shri S.B. Patil was promoted to the said grade under Board's Wire No.E(O)III-93 PN/20 dated 20.5.1993 and Applicant be granted all the consequential benefits including monetory benefits.

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(b) that, in any event, the Respondents be directed to convene a ~~Review~~ DPC of 1992 and if need be of DPC of 1993 and consider the claim of the Applicant for promotion to Senior Administrative Grade, according to law and according to correct records, ignoring the adverse remarks for the year 1989-90 and also the adverse grading if any, that may exist in the years, to be considered and promote the Applicant to the Senior Administrative Grade, If found suitable from the date, the junior of the Applicant, the said Shri S.B. Patil came to be promoted on the basis of the 1992 DPC and the Respondents be further directed to grant the Applicant all the consequential benefits including monetory benefits.

(c) that if need be, the adverse remarks for the year 1989-90 and the uncommunicated adverse grading, namely, "Good" that may exist in the Annual ~~Confidential~~ Reports in any of the years during the ~~relevant period be ordered~~ to be expunged.

(d) that if need be, it be declared that the Applicant was ~~entitled~~ to Vigilance clearance with the DPCs met in October 1992 and July/August 1993.

(e) that the decision of the Railway Board conveyed under letter dated 8.3.1994 Exhibit A-I hereto be quashed and set aside.

(f) that such other and further order or orders be passed as the nature and circumstances of the case may require.

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(g) that the cost of this application be provided for."

2. The facts not in dispute are that the applicant was promoted as Deputy Chief Engineer (Construction) in MTP Railway Construction at Churchgate, Mumbai in the scale of Rs.4500-5700 on 14.12.1982, placed in the selection grade on 8.9.1988. The next promotion from the post of Dy. Chief Engineer is senior Administrative Grade in the scale of Rs.5900-6700. The applicant has completed the promotional course named Senior Administrative Grade promotional course in October 1989. The applicant was eligible for the promotional post i.e. Senior Administrative Grade for which D.P.C. was held in October, 1992. The applicant was considered in the said DPC and his result was put in a sealed cover. The applicant was communicated the adverse ACR for the year 1989-90 on 21.5.1990. He represented against the same to expunge the said remarks vide representation dated 19.6.1990 (Ex.-I) and also requested to inform about the cases wherein short comings were noticed, so that he can reply to the same, but the said representation were not decided. The non-selection of the applicant in the DPC was represented vide representation dated 14.7.1993 and 12.8.1993 which is replied vide letter dated 6.4.1994.

3. Rule 10 of Central Administrative Tribunal (Procedure) Rules is as under :-

"10. Plural remedies -- An application shall be based upon a single cause of action and may seek one or more reliefs

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provided that they are consequential to one another."

4. The applicant is challenging the DPC of 1992, 1993 and also seeking the relief to expunge the adverse remarks for the year 1989-90. The relief claimed by the applicant cannot be said to be based on single cause of action. Learned counsel for applicant argued that he is seeking the relief of promotion which is the one and only relief should be treated as one. We are not in agreement with the learned counsel for the applicant that relief claimed by the applicant arises upon a single cause of action, the reason is that if the applicant challenges the DPC of 1992, another DPC is held in 1993 also challenges the same. Further he is also seeking relief to expunge the adverse remarks of 1989-90, as such the relief cannot be said to have been arising upon a single cause of action. In addition to it he has also claimed the relief that he is entitled to declare that the Vigilance clearance with the DPCs met in October 1992 and July/August 1993. The said relief cannot be said to be arising out of DPC, in the year 1992 and 1993. The reliefs claimed cannot be said ^{to be} arising on his single cause of action.

4. With a view to afford an opportunity to applicant to elect one of the reliefs, when asked by the Bench Learned counsel for the applicant stated that he is claiming only one relief in O.A. and as such there is no necessity for election amongst the reliefs sought. In the

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result there is no option except to dismiss the O.A. which suffers with defect of plural remedies. The O.A. is dismissed with no order as to costs.

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(Smt. Shanta Shastry)
Member (A)

Rajni
(S.L. Jain)
Member (J).

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~~Order/Judgement despatched~~
to Applicant, Respondent (s)
on 24/6/02

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