

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No: 132/97

Date of Decision: 24.3.1998

V. Srinivasan

Applicant.

Shri S. Natarajan

Advocate for  
Applicant.

Versus

Union of India & Ors.

Respondent(s)

Shri M. I. Sethna

Advocate for  
Respondent(s)

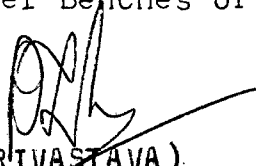
CORAM:

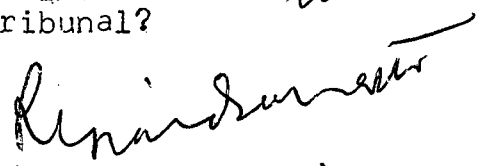
Hon'ble Shri. Justice R.G. Vaidyanatha, Vice Chairman

Hon'ble Shri. P.P. Srivastava, Member (A)

(1) To be referred to the Reporter or not? *no*

(2) Whether it needs to be circulated to other Benches of the Tribunal? *no*

  
(P.P. SRIVASTAVA)  
MEMBER (A)

  
(R.G. VAIDYANATHA)  
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

DA.NO.132/97

Tuesday this the 24th day of March, 1998

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman  
Hon'ble Shri P.P.Srivastava, Member (A)

1. V.Srinivasan
2. H.M.Aga
3. A.V.Chughule
4. A.K.Chakravarty
5. S.S.Negi
6. S.C.Sharma
7. M.S.Grewal
8. K.N.Singh

C/o. V.Srinivasan,  
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Jai Jawan Society,  
Sector 17, Vashi,  
Navi Mumbai 400 703.

By Advocate Shri S.Natarajan

... Applicants

V/S.

1. Union of India through  
The Secretary,  
Department of Atomic Energy,  
Anushakti Bhavan, C.S.M.Marg,  
Bombay.
2. Joint Secretary,  
Deptt. of Atomic Energy,  
Anushakti Bhavan, Bombay.
3. Director, BARC,  
Central Complex,  
Trombay, Bombay.
4. Controller, BARC,  
Central Complex,  
Trombay, Bombay.
5. Chief Security Officer,  
BARC, Central Complex,  
Trombay, Bombay.
6. Officer on Special Duty,  
Department of Atomic Energy,  
Anushakti Bhavan, C.S.M.Marg,  
Bombay.

By Advocate Shri M.I.Sethna  
C.G.S.C.

... Respondents

ORDER

(Per: Shri Justice R.G.Vaidyanatha, VC)

This is an application filed by 8 applicants challenging their non-selection to the promotion of Security Officer. Respondents have filed reply opposing the admission. Since the point involved is short, we have heard the learned counsel for both sides regarding admission and on merits.

2. The applicants are working as Assistant Security Officers in BARC at Bombay. Their next channel of promotion is to the post of Security Officer. These applicants were not selected in 1991. The applicants challenged their non-selection by filing OA.NO. 123/91. This Tribunal by order dated 12.1.1995 quashed the selection list on the short ground that interview's marks were taken into account which was not permissible in law. This Tribunal gave a direction to the respondents to do the exercise again of selecting the candidates for the promotion post without holding any interview. It is on this basis the respondents constituted the review DPC which met on 23.5.1996 and prepared a select panel of 26 candidates. The names of the applicants did not find place in the select panel; therefore, the applicants have approached this Tribunal for quashing that panel and for direction to the respondents to empanel the applicants for the promotional post of Security Officer and for consequential reliefs.

3. Respondents have filed reply stating that review DPC has done the selection on the basis of grading as per the direction given by this Tribunal ~~in~~ in the previous order. It is stated that as per the review DPC held on 23.5.1996 the applicants were not found fit for promotion and hence they could not be selected. They have also further stated that some of the applicants have <sup>been</sup> found subsequently fit for the subsequent years and have since been promoted.

4. Mr.S.Natarajan, learned counsel for the applicant contended that the respondents have not carried out the DPC meeting as ordered by this Tribunal and the selection panel prepared is contrary to the directions of the Tribunal and the applicants cannot be held to be unfit since they have done very good service in BARC for so many years. He, therefore, sought a direction that the impugned panel should be quashed and the respondents should be directed to promote the applicant to the post of Security Officer. On the other hand, Mr. M.I.Sethna, learned counsel for the respondents contended that the selection has been done as per the orders of this Tribunal and the applicants were found <sup>not</sup> fit for promotion.

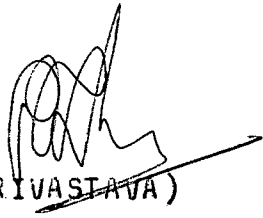
5. We have heard the learned counsel for both the sides and perused the DPC proceedings and the ACRs for the relevant years. We find that all the 8 applicants have been considered in the review DPC meeting held on 23.5.1996 and the applicants have been shown as not fit for promotion by the DPC. Since the learned counsel for the applicants seriously disputed this

finding, we have perused the DPC proceedings and ACRs made available to us by the learned counsel for the respondents. We find that the DPC has considered all the 8 applicants and they have recorded the finding that they are not fit on the basis of grading of ACRs for the relevant years. The learned counsel for the applicants contended that the grading given is wrong since the applicants have got meritorious service in the Department. We are afraid that we cannot accept this contention. The Tribunal cannot sit in appeal over the findings of DPC. What we have to see is whether the DPC has followed the correct procedure or not. If the DPC proceedings are as per rules, then we cannot sit in appeal over the findings of DPC.

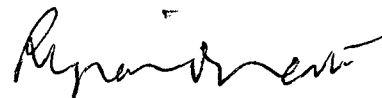
6. Another argument of learned counsel for the applicant is that the respondents have held a review DPC but it is not correct since this Tribunal has given a direction to hold fresh DPC. In our view, this difference in the label whether it should be a fresh DPC or review DPC is only a distinction without any difference. From the materials on record which were made available by the learned counsel for the respondents, we find that the committee has sat as a DPC. It has considered the officials afresh including giving a grading etc. Therefore, merely because it is called a review DPC, we cannot reject the finding of the DPC. It is also seen that some of the applicants been have subsequently promoted. This shows that the administration is fair to them. We find that all the applicants have been considered by the DPC as per the orders passed by this Tribunal in OA.NO.123/91

and the DPC has found that the applicants are not fit for promotion. We do not find any ground to interfere with the DPC proceedings. Therefore, this is not a fit case for admission of the OA.

7. In the result, the present OA. is rejected at the admission stage. No costs.



(P.P.SRIVASTAVA)  
MEMBER (A)



(R.G.VAIDYANATHA)  
VICE CHAIRMAN

mrj.

(1)