

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
ORIGINAL APPLICATION NO.203/1997  
DATED THE 10TH DAY OF DEC, 2001

CORAM:HON'BLE SHRI S.R.ADIGE, VICE CHAIRMAN  
HON'BLE SHRI S.L.JAIN, MEMBER(A)

Shri G.S.Rathore,  
District Elect. Engineer(C),  
Traction Sub-Station Building,  
IMC Marg, 'D' Road, Churchgate,  
Mumbai. ... Applicant

By Advocate Shri D.V.Gangal

V/s.

1. Union of India through  
Secretary,  
Railway Board, Rail Bhavan,  
New Delhi.
2. General Manager,  
Western Railway,  
Churchgate,  
Mumbai. ... Respondents

By Advocate Shri V.S.Masurkar.

(ORAL)(ORDER)

Per Shri S.R.Adige, Vice Chairman

The applicant challenges his non promotion to Junior Administrative Grade with retrospective effect dated 4/3/1996 and prays that the adverse remarks recorded in his ACR which led to his non promotion to Junior Administrative Grade w.e.f. 4/3/1996 be deleted and consider his prayer for promotion.

2. We have heard the applicant's counsel, Shri D.V.Gangal and respondents' counsel, Shri V.S.Masurkar.

3. We have perused the original records of the Departmental Promotion Committee which met on 19/2/1996 for considering adhoc promotions to Junior Administrative Grade of Sr.Scale IRSEE Officers. On the date the aforesaid selection committee met, the ACRs for the years 1990-91, 1991-92, 1992-93,

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1993-94 and 1994-95 would have been relevant. The proceedings of the aforesaid selection committee meeting dated 19/2/96 reveal, that on the basis of applicant's ACRs, the committee did not consider him suitable for promotion.

4. We have perused the applicant's ACRs in original for the aforesaid period, and hold that the selection committee cannot be faulted with for coming to the conclusion that applicant was not suitable for promotion. In this connection, we further note that applicant had challenged the adverse remarks recorded in ACR for the year 1990-91 vide OA 411/92 which was disposed of by order dated 12/1/1993 whereby certain portions of the adverse remarks for the year 1990-91 were ordered to be deleted. Similarly, applicant had also challenged the adverse remarks recorded in his ACR for the year 1993-94 in OA-629/95, but that OA was dismissed by order dated 25/4/96 (Annexure A-20). Nothing has been shown to us to establish that the aforesaid order in the two OAs have been stayed or set aside.

5. As stated above, even after deletion of certain adverse remarks recorded in the ACRs for the year 1990-91, it cannot be said that the respondents have acted illegally or arbitrarily in holding that applicant was not suitable for promotion to the Junior Administrative Grade w.e.f. 4/3/1996.

6. During the course, Shri D.V.Gangal asserted that many of these remarks had been recorded by the authorities superior to the applicant for arbitrary and malafide reasons. In this connection, we are informed that the applicant has separately challenged these adverse remarks in the ACRs in OA 575/2001, which has not been disposed of.

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7. It is clear that as long as the adverse remarks in ACRs for the period 1990-91 to 1994-95 are not expunged, the respondents cannot be faulted for holding that applicant was not suitable for promotion to Junior Administrative Grade w.e.f. 4/3/1996. Respondents Counsel, Shri V.S.Masurkar very ~~fairly~~ <sup>fairly</sup> stated that if the applicant succeeds in OA-575/2001, the respondents in any case would have to hold a review DPC to consider grant of promotion to the Applicant to the Junior Administrative Grade. However, till such time as the adverse remarks for the aforesaid period 1990-1995, are not expunged the present OA warrants no interference.

8. If upon OA No.575/2000 being allowed, any grievance still survives it will be open to applicant to agitate the same through appropriate proceedings in accordance with law if so advised.

9. The present OA stands disposed of in the above terms. No costs.

*(S.L.JAIN)*  
(S.L.JAIN)  
MEMBER(J)

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*Anil Adige*  
(S.R.ADIGE)  
VICE CHAIRMAN