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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

OA 753/92
(OA 552/90)

: Date of order 28.10.94

Yashwant Singh

: Applicant

V/s

Union of India & Others

: Respondents

Mr. J.K. Kaushik

: Counsel for the applicant

Mr. Manish Bhandari

: Counsel for the respondents.

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Hon'ble Mr. Gopal Krishna, Member (Judicial)

Hon'ble Mr. O.P. Sharma, Member (Administrative)

PER HON'BLE MR. O.P. SHARMA, MEMBER (ADMINISTRATIVE)

Shri Yashwant Singh in this application u/s 19 of the Administrative Tribunals Act, 1985, has prayed that the respondents may be directed to consider the applicant's case for promotion to the post of Assistant Traction Foreman scale Rs. 1600-2660(RPS) from the date his junior has been promoted i.e. w.e.f. 30.1.90 with all consequential benefits. For this purpose he has prayed that the orders Annexure A-1 dated 31.1.90 and Annexure A-2 dated 14.3.90 may be modified accordingly.

2. The applicant's case is that although he was sent for training for two years from September, 1985 to August, 1987 for the post of Apprentice Electrical Chargeman, he was deputed for field duties on the working post on completion of one year's training only. His performance was evaluated for writing his confidential report for the year 1986-87 when he was functioning on the working post and an adverse entry was recorded in his ACR for the year ending 31.3.87. Due to the said entry, the applicant was not granted promotion to the post of Assistant Traction Foreman scale Rs. 1600-2660 (RPS). There were several other officials who were also given adverse remarks in their ACRs and their promotion was also withheld. However, subsequently,

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the promotion of several others was released although the adverse remarks in their ACRs stood. In the circumstances, the applicant's case is that there has been discrimination against him by not granting him promotion. The applicant also submitted a representation against the denial of promotion to him (Annexure A-7 dated 10.4.90).

3. The respondents in their reply have stated that the authorities were justified in recording the confidential report of the applicant after he was put to a working post, after curtailing the period of training. They have referred to the directions contained in the order dated 10/29-10-90 wherein it has been stated that for non-selection posts, the persons who have two ACRs 'good' out of three including the last one, may be considered as fit for promotion. This order has been marked as Annexure R-2.

4. We have heard the learned counsel for the parties and have gone through the records.

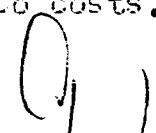
5. The respondents were justified in recording the ACR of the applicant for the period 1986-87 when he had been deployed in the field and was put to a working post, in spite of the fact that otherwise this period would have been part of his training period. We are also not prepared to accept that there was discrimination in that promotion ~~which~~ was granted to others but not to the applicant, because the precise and ~~xxx~~ relevant facts of each case are bound to differ.

6. It is not clear whether in terms of order dated 10/29.10.90 (Annexure R-2), the applicant had two ACRs which could be described as 'Good' including the last one, out of three. The applicant's case for promotion was considered in January, 1990 and the ACRs which were relevant for consideration

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were for the years ending 31.3.87, 31.3.88 and 31.3.89. The ACR for the year ending 31.3.87 has been treated as adverse. If the ACRs for the years ending 31.3.88 and 31.3.89 are in fact good or have a rating higher than 'Good', the applicant would be entitled to promotion in terms of the directions contained in Annexure R-2. The respondents are directed to re-examine the case of the applicant and if he is found entitled to promotion in terms of the directions contained in Annexure R-2, in the light of the above discussion, they may grant promotion to him from the date from which he was due, with all consequential benefits. The respondents shall re-consider the case of the applicant within a period of three months from the date of receipt of a copy of this order.

6. The OA is disposed of accordingly, with no order as to costs.


(O.P. SHARMA)
MEMBER(A)


(GOPAL KRISHNA)
MEMBER(J)