

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.884/92

Date of order: 2.4.1996

Kailash Tandon

: Applicant

Vs.

Union of India & Ors.

: Respondents

Mr.S.Kumar

: Counsel for the applicant

Mr.U.D.Sharma

: Counsel for respondents

CORAM:

Hon'ble Mr.Gopal Krishna, Vice Chairman

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

PER HON'BLE MR.GOPAL KRISHNA, VICE CHAIRMAN.

Applicant Kailash Tandon, in this application under Sec.19 of the Administrative Tribunals Act, 1985, has challenged the impugned order dated 17.6.83 (Annx.A2) containing adverse entries in his Annual Confidential Report for the year ending 31.3.83 and the order dated 12.10.89 (Annx.A1) by which his representation claiming promotion to the post of Junior Shops Superintendent (JSS/SEF) scale Rs.2000-3200(RP) w.e.f. 1.1.84 was rejected. The applicant has also claimed a direction to the respondents to consider him for the post of JSS w.e.f. 1.1.84.

2. We have heard the learned counsel for the parties and have gone through the records of the case carefully.

3. The contentions of the applicant are that while holding the post of Senior Electric Chargeman he fell within the zone of consideration for promotion to the post of Junior Shops Superintendent w.e.f. 1.1.84 under the restructuring scheme. However, he was not promoted to the said post while his juniors earned their promotion under the Upgradation Scheme. He made numerous representations in regard to his grievance from 9.3.85 till 17.1.89 and he was informed vide a communication dated 12.10.89 that the applicant could not be considered suitable for promotion to the aforesaid post w.e.f.

Crishna

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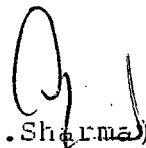
1.1.84. It is urged on behalf of the applicant that the applicant was wrongly superseded by his juniors in the matter of promotion despite the fact that he was fully eligible for promotion under the Upgradation Scheme as per the rules. The learned counsel for the applicant contends that under the Restructuring Scheme only 3 preceding Annual Confidential Reports had to be considered for giving promotion and in the case of the applicant out of the 3 Annual Confidential Reports only one had contained adverse entries but as per the recognised formula the applicant was entitled to be considered for promotion even if there were adverse entries in one of Annual Confidential Reports relating to the preceding 3 years. The learned counsel for the applicant has referred to the General Manager, Western Railway's instruction dated 10/29.10.90, in support of his contention, in this regard. The instructions relied upon by the learned counsel for the applicant however show that for a person to be eligible for promotion on the basis of restructuring, two out of the three preceding Annual Confidential Reports including the last one have to be 'Good'. In the applicant's case, the last Annual Confidential Report namely for the year ending 31.3.83 is admittedly adverse, therefore, the applicant has no case for promotion on the basis of restructuring w.e.f. 1.1.84.

4. The promotions against upgraded post were made on the basis of the Annual Confidential Reports for the last preceding three years. The applicant's suitability for promotion against upgraded post was assessed by a Selection Committee, on the basis of his record and on an over all assessment of record the applicant was not adjudged suitable for promotion for the aforesaid post and hence he was not promoted to it.

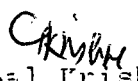
5. The applicant's representation against adverse

entries in the Annual Confidential Report for the year ending 31.3.83 was duly considered by the competent authority and since the same was rightly rejected after affording an opportunity of hearing to the applicant, therefore, it does not call for any interference by this Tribunal. Also the adverse entries are in the Annual Confidential Report for the year ending 31.3.83 and these were communicated to the applicant vide Annx.A2 dated 17.6.83. He submitted his first representation against these entries on 8.7.83. He has filed the present O.A on 28.3.90. Therefore, the prayer in regard to the expunction of adverse entries is clearly time barred.

6. There is no substance in this application. It is, therefore, dismissed with no order as to costs.


(O.P. Sharma)

Member (Adm.)


(Gopal Krishna)

Vice Chairman.