

(8)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.57/89.

Date of Judgment 3-1-1991

✓ V.Viswanatha Murthy

.. Applicant

Vs.

✓ The Union of India,
Represented by the
Secretary,
Central Board of
Direct Taxes,
New Delhi

.. Respondent

--

✓ Counsel for the Applicant : Shri Duba Mohan Rao

✓ Counsel for the Respondent : Shri E.Madan Mohan Rao,
Addl. CGSC

--

CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Judl)

Hon'ble Shri R.Balasubramanian : Member(Admn)

I Judgment as per Hon'ble Shri R.Balasubramanian,
Member(Admn) I

--

This application has been filed by Shri V.Viswanatha Murthy under section 19 of the Administrative Tribunals Act, 1985 against the Union of India, represented by the Secretary, Central Board of Direct Taxes, New Delhi.

2. The applicant was working as a Gr. 'B' Incometax Officer till 29.3.88 when he was prematurely retired under Rule 48 of the CCS (Pension) Rules. He has filed a separate O.A.No.13/89 against this. In this application the applicant alleges that he was not considered for promotion to the rank of Asst. Commissioner in the D.P.C held towards the end of 1987 the results of which had been communicated in the Railway Board's orders

gb

dated 5.1.88. The applicant feels that he is quite fit for promotion and that his being not promoted is unjust. He has prayed that he be promoted with retrospective effect from 5.1.88 when his juniors were promoted.

3. The application is opposed by the respondent. It is stated that the applicant was duly considered by the D.P.Cs held in February, 1987 and November, 1987. The D.P.C. held in February, 1987 did not include his name because of his ^{low} seniority. The findings of the D.P.C. held in November, 1987 were kept in a sealed cover as his integrity was not certified. It is stated that they have followed the prescribed procedure and justify their action in not having promoted him.

4. We have heard the learned counsel for the applicant and the respondent. The main question is whether he was eligible for promotion or not. We find from the admission of the respondent that the proceedings of the November, 1987 D.P.C. had been kept in a sealed cover. The sealed cover procedure has to be followed only when a charge-sheet has been issued. The judgment in O.A. No.13/89 challenging the premature retirement had already been delivered and the premature retirement order has been quashed by this Tribunal vide its judgment dated 1.1.91. Hence we direct the respondent to open the sealed cover pertaining to the November, 1987 D.P.C. If the applicant ^{is} ~~was~~ found fit for promotion, the respondent shall treat the applicant as having been promoted with effect from 5.1.88 when his juniors were promoted. In such a case

23

he will get all the benefits flowing out of the promotion except the arrears from 5.1.88 till the date of his actual promotion. The respondent is also directed to complete this exercise within two months of receipt of this judgment. There is no order as to costs.

(J.Narasimha Murthy)
Member(Judl).

(R.Balasubramanian)
Member(Admn).

Dated 3rd January 91

S. Srinivasan
Deputy Registrar(Judl)

To

1. The Secretary, Union of India,
Central Board of Direct Taxes, New Delhi.
2. One copy to Mr.Duba Mohan Rao, Advocate
69/3RT, Vijayanagar Colony, Hyderabad
4. One copy to Mr.E.Madanmohan Rao, Addl.CGSC. CAT.Hyd.Bench.
5. One copy to Hon'ble Mr.R.Balasubramanian, Member(A)CAT.Hyd.
6. One copy to Hon'ble Mr.J.Narasimha Murthy, Member(J)CAT.Hyd.
7. One spare copy.

pvm