

C.P.NO.88 of 1991

In

O.A.NO.1032 of 1990.

Between

B. Venkataswamy

Madan M.L.Sarma,  
The General Manager,  
South Central Railway,  
Secunderabad.

...  
And

Dated: 4th November, 1991.

Applicant

Respondent.

Counsel for the Applicant  
Counsel for the Respondent

: Shri. G. Vedantha Rao.  
: Shri. D. Gopal Rao, SC for Railways

CORAM:

The Hon'ble Mr. R. Balasubramanian, Member (Admn.)

The Hon'ble Mr. T. Chandra Sekhar Reddy, Member (Judl.)

The Tribunal made the following order:-

A copy of the counter is served by the respondents on the applicant's advocate and counter is filed. Heard both sides. In the OA, the prayer was for dropping the disciplinary proceedings and to promote the applicant to the post of Senior Accounts Officer with retrospective effect from 27.1.89 when his junior was promoted together with specific benefits. In the final judgment dated 30.5.91 in the OA, no specific direction had been given about the dropping of the disciplinary proceedings. A specific direction was given that the applicant should be considered for promotion to the post of Senior Accounts Officer subject to his suitability and if he is found suitable for the promotion he should be promoted from the date when his juniors were promoted. When the CP came up for hearing, it was informed by the learned counsel for the respondents that finally on 23.4.91 the disciplinary proceedings had been concluded and that a punishment of ~~with~~ withholding of 2 increments till his retirement had been imposed on the applicant. To a specific question whether at the time of DPC in pursuance of which his juniors were promoted on 27.1.89, the sealed cover procedure was adopted or not there was no answer ~~given~~. The counter affidavit filed by them in this CP is silent in this respect. Therefore, it is reasonable to infer that the sealed cover procedure was not adopted. Under these circumstances, we feel that the interest of justice would be met, if the respondents are directed to convene a review DPC to assess the suitability or otherwise for promotion at the time when his juniors were promoted, and if the applicant is found suitable they shall take further action on the findings of the DPC in accordance of the rules. We accordingly direct them to do so. We also direct that this exercise should be completed within a period of 2 months of the receipt of this order. As in our opinion there is no wilful disobedience of the orders of this Tribunal, the CP filed is not maintainable. Hence we dismiss the CP with the above said directions.

Deputy Registrar, (Judl.)

Copy to:-

1. Shri Madan M.L.Sarma, General Manager, South Central Railway, Secunderabad.
2. One copy to Shri. G. Vedantha Rao, Advocate Associations, High Court building, Hyd.
3. One copy to Shri. D. Gopal Rao, SC for Railways, CAT Hyd.
4. One spare copy.

Rsm/-