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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD.

O.A.No.547/91.

Date of Judgement : 17-3-1994

C.Rama Rao

.. Applicant

Vs.

The Divl. Rly. Manager,  
S.E.Rly., Waltair.

.. Respondents

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Counsel for the Applicant :: Shri P.B.Vijaya Kumar

Counsel for the Respondent :: Shri N.R.Devaraj, SC for Rlys.

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C O R A M

Hon'ble Shri Justice V.Neeladri Rao : Vice-Chairman

Hon'ble Shri A.B.Gorthi : Member(A)

J u d g e m e n t

{ As per Hon'ble Shri A.B.Gorthi : Member(A) }

The grievance of the Applicant is that the Respondents improperly denied him promotion to the higher post of Chief Ticket Inspector (C.T.I.for short) w.e.f. 23.6.86 when his junior was so promoted. The Applicant's claim is for promotion to the post of C.T.I. w.e.f. 23.6.86 with all consequential benefits.

2. In 1985, the Applicant while working as Travelling Ticket Inspector (T.T.I.for short) became eligible for promotion to the post of C.T.I. The Respondents did not call him for the selection but promoted his junior, Shri G.Eswararao w.e.f. 23.6.86. On 9.11.84, the Applicant was served a charge memo alleging that, posing himself as a Vigilance Officer, he carried out checks in the sleeper and general coaches. The department enquiry that was held, ended in the imposition of the penalty of removal from service. The appellate authority, however, reduced the punishment to that of reversion as T.T.E.'A'.

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Aggrieved by the same, the Applicant filed O.A.No.543/87 which was allowed by the Tribunal vide its order dated 14.9.89. The penalty was quashed with all consequential benefits. The Respondents then called the Applicant for selection to the post of C.T.I. The Applicant appeared for the written test on 22.6.90 and was called for viva voce on 18.7.90. When the results were announced his name was not included in the select panel. There was another disciplinary case against the Applicant. On 12.11.86, he was served with a charge memo stating that he falsely claimed to belong to the Scheduled Tribe of Konda Kapu. On that charge-sheet, a departmental enquiry was instituted but the Applicant filed a W.P.No.800/88 before the High Court of Andhra Pradesh which stayed the disciplinary enquiry. Thus, the contention of the Applicant is that though he became eligible for promotion as early as in 1985 the Respondents denied promotion to him without any justification.

3. The Respondents in their reply affidavit have stated that the Applicant was transferred to Nagpur Division on 23.2.85. In the selection that was to be held for promotion to the post of C.T.I. in April, 1985 his name was not considered because at the relevant time he was not on the strength of Waltair Division. It was only later that his transfer was set aside by the Tribunal in its order dated 1.10.86 in O.A.No.317/86. In any case, in view of the charge memo dated 9.11.84 and the enquiry that was held, there was no question of considering

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the Applicant for promotion 1985. Later, when the penalty of removal imposed on the Applicant was modified to that of reduction to the lower post of T.T.E.'A', he could not be considered for promotion to the post of C.T.I. as he was not eligible for such consideration while in the post of T.T.E.'A'. Subsequently, when the penalty was set aside by the Tribunal vide its order dated 14.9.89 in O.A.No.543/87, the Respondents decided to consider the case of the Applicant for promotion to the post of C.T.I. He was called for the selection test but in the select panel his name was not included for the reason that yet another enquiry against the Applicant was pending on the charge that he falsely declared himself as belonging to the Scheduled Tribe of Konda Kap

4. We have heard learned counsel for both the parties. In Union of India Vs. K.V.Janakiraman, AIR 1991 SC 2010 it was observed that when a charge memo in a disciplinary proceedings is issued to the employee, it can be said that the departmental proceedings are initiated against the employee and that the sealed cover procedure is to be resorted to. The sealed cover procedure envisages that in the matter of promoting an employee against whom disciplinary proceedings are pending, the finding of the Selection Committee/D.P.C. should be kept in a sealed cover to be opened only on the conclusion of the disciplinary proceedings. In the instant case, the Applicant was served with the charge memo on 9.11.84 and the

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To

1. The Divisional Railway Manager,  
S.E. Railway, Waltair.

2. One copy to Mr. P. B. Vijaya Kumar, Advocate, CAT. Hyd.

3. One copy to Mr. N. R. Devraj, SC for Rlys. CAT. Hyd.

4. One copy to Library, CAT. Hyd.


5. One spare copy.


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disciplinary proceedings concluded only in 1987 with the imposition of a penalty upon the Applicant. Moreover, the Applicant stood transferred to Nagpur Division w.e.f. 23.2.85. The Respondents are, therefore, justified in not considering him for promotion in 1985. In 1987, when he would have been considered again, he was in the lower post of T.T.E.'A' and hence was rightly not considered for promotion to the post of C.T.I. After the setting aside of the penalty by the order dated 14.9.89 of the Tribunal, the Applicant was subjected to the selection that was held in June, 1990. The fact, however, that remains that as on date a departmental disciplinary enquiry was pending against the Applicant on the charge of false declaration of his caste. Admittedly, the Applicant approached the High Court of Andhra Pradesh which, in its interim order, stayed the enquiry against the Applicant. Thus, the disciplinary enquiry against the Applicant cannot be said to have concluded. Consequently, the sealed cover procedure envisaged for a contingency of this nature would squarely apply. In these circumstances, the decision of the Respondents not to issue final orders on the promotion of the Applicant cannot be said to suffer from any such irregularity or illegality as would warrant our interference.

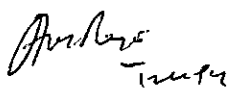
5. In the result, we find no merit in this O.A. and the same is hereby dismissed. There shall be no order as to costs.

  
( A.B.Gorthi )  
Member(A).

  
( V.Neeladri Rao )  
Vice-Chairman.

Dated: 17 March, 1994.

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Deputy Registrar (C) cc