

THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH HYDERABAD.

O.A.NO. 417 of 1992.

Between

Dated: 13.7.1992.

K.Ram Mohan Rao.

...
And

Applicant

1. The Secretary to Government, Ministry of Defence, Union of India, New Delhi.
2. Engineer-in-Chief, Army HQ, DHQ PO, Kashmir House, New Delhi.

... Respondents.

Counsel for the Applicant : Sri. K.S.R. Anjaneyulu,

Counsel for the Respondents : Sri. M.Jagan Mohan Reddy.

CORAM:

Hon'ble Mr. R.Balasubramanian, Administrative Member
Hon'ble Mr. C.J.Roy, Judicial Member.

(Judgement of the Bench as per Hon'ble Mr. C.J.Roy, Judicial Member)

This application is filed under sec. 19 of the Administrative Tribunals Act, 1985 with a prayer to call for the records pertaining to the orders issued by the Engineer-in-Chief, AHQ, New Delhi bearing lr. No.A/41021/1/91/E1R(0) dated 27.4.92 listing the panel for promotion to the grade of Addl. Chief Engineer, to declare them as arbitrary, illegal and untenable and to quash the same. The applicant also prays for a consequential direction to consider his case for promotion to the post of Addl. Chief Engineer without taking into account the remarks of the Reviewing Officer by giving appropriate position to him over his juniors.

2. The facts of the case are that the applicant joined the MES in March, 1963 in the capacity of Assistant Executive Engineer through UPSC. He was subsequently promoted as Executive Engineer and as Superintending Engineer in May, 1986. It is stated that the applicant was posted as Staff Officer Grade I (Planning) at the Office of Chief Engineer, Visakhapatnam and also that he was posted as Commander Works Engineers (CWE) to bring up certain Time Bound Defence Project and that he had successfully completed the said project. The applicant stated that he had assumed the office of Commander Works Engineer (Project) Factory, Bolangir in August, '86 and claims that he performed his duties in his capacity as Commander works Engineer in the rank of Superintending Engineer (Selection Grade) efficiently and effectively. It is also stated that in the light of various reports given by his immediate superior officers, his work is adjudged to be outstanding and was hoping that he would get his next promotion as Additional Chief Engineer, in his turn. The applicant alleges that to his surprise

the applicant. We are satisfied with reference to the appreciation of the Reviewing Officer as well as Head of the Department of the remarks made by the Reporting Officer for all the relevant years.

9. It is not out of place to mention herein that, sometimes in selection post of Group 'A', the juniors may have outstanding reports and even seniors may have only good reports punctuated in between by 'Very Good' remarks as matters stand. It cannot be overlooked if persons with 'Outstanding performance' take priority over 'Very Good' people when it is Selection Post falling under the category of Group 'A'. While assessing the merit sometimes it may happen or may not happen that the juniors may be promoted or seniors may be over-looked or even some of his seniors may also be overlooked who are 'Very Good'.

10. In the instant case, the post to be filled is Additional Chief Engineer which falls in the category of 'Group 'A' and (9) vacancies were available to be filled-up. Against the said vacancies 22 eligible persons were considered and the applicant herein stood at S.No.13 in the panel for consideration made by the D.P.C. So, after looking into the ACRs of the applicant, we are satisfied that the DPC has rationally fixed the ratings with reference to the applicant. We also found that the estimate of the performance of the applicant as it existed in his ACRs does not require, as stated supra, elaborate reasoning since there is no adverse remarks. The applicant has not made out any case to satisfy us that the DPC failed to assess his performance properly. The other facts alleged and rebutted need not be traversed in view of our observations supra. The applicant has not questioned the panel nor the zone of consideration. As we find no arbitrariness and lack of material in the observations made by the Reviewing authorities after the Reporting Authorities made comments or in the comments of the Head of the Department in each year for all the years in appraising the performance of the applicant, this case does not merit any interference by this Tribunal. Hence the O.A. is rejected. No costs.

Sd/-
Deputy Registrar(Judl.)

CERTIFIED TO BE TRUE COPY

.....
Date.....

Court Officer,
Central Administrative Tribunal,
Hyderabad Bench, Hyderabad.

Contd:....5/-

of Addl. Chief Engineer is a selection post and that the D.P.C. strictly followed the Rules prescribed in this regard while making a panel by assessing the eligible officers in the zone of consideration. The respondents justify their action in issuing the impugned proceedings and desire the O.A. be dismissed.

4. We heard Sri. K.S.R. Anjaneyulu, learned counsel for the applicant and Sri. Jagan Mohan Reddy, learned counsel for the respondents and perused the records carefully.

5. The short point in the matter is whether the D.P.C. has properly considered as per the required guidelines laid down, rationally the case of the applicant for promotion to the post of Additional Chief Engineer. Admittedly, since this is a selection post, the D.P.C. has to consider the Annual Confidential Report for 5 years atleast, of the incumbents who are 22 in number in the zone of consideration and are empanelled eligible to be considered for nine vacancies, to be filled up.

6. This case was posted for admission hearing on 11.5.92 on which day the respondents were directed to produce the proceedings of D.P.C. since it was felt that the matter would be disposed-of at the admission stage itself. During the course of arguments, the respondents have produced the minutes of the D.P.C. along with the recommended panel for promotion to the posts referred to above viz. Additional Chief Engineer.

7. We have carefully gone through the applicant's Annual Confidential Reports for the preceding five years. Annex.1 is the panel for promotion and Annexure-2 contain the rules regulating the method of recruitment and the conditions of service of persons appointed to the Indian Defence Service of Engineers etc., Annexure-5 is a Brochure on preparation and maintenance of Confidential Reports.

8. The learned counsel for the applicant argues that the Reporting Officer's remarks were not properly appreciated either by Reviewing Officers or by the Head of the Department with reasoned remarks. It is pertinent to note that in the event of adverse remarks only, the Reviewing Officer or Head of Department has to, while reviewing and countersigning the ACR, append the reasons thereto. In this case, we have examined the Annual Confidential Reports of the applicants as stated supra for the relevant years and also the remarks of Reporting Officer, Reviewing Officer as well as Head of the Department. We found that the Reviewing Officer or Head of Department have not passed any remarks which require elaborate reasoning so as to prejudice the case of

Copy to:-

1. The Secretary to Government, Union of India, Ministry of Defence New Delhi.
2. The Engineer-in-Chief, Army HQ, DHQ PO, Kashmir House, New-Delhi-11.
3. One copy to Sri. K.S.R.Anjaneyulu, advocate, CAT, Hyd.
4. One copy to Sri. M.Jagan Mohan Reddy, Addl. CGSC, CAT, Hyd.
5. One copy to Hon'ble Mr. C.J.Roy, Judicial Member, CAT, Hyd.
6. One copy to Deputy Registrar(Judl.) CAT, Hyd.
7. Copy to all Benches and Reporters as per standard list of CAT, Hyd-bad.
8. One spare copy.

Rsm/-

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