

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

O.A.No.1048 of 1994.

Date of decision: 14-10-1997.



Between:

V. Prasada Rao.

.. . . Applicant.

And

1. The Chief General Manager, Telecommunications,
Andhra Pradesh, Hyderabad.
2. The General Manager, Telecom, Guntur.
3. The Telecom Division Engineer, Ongole.
4. The Sub Divisional Officer (Phones), Ongole.
5. The Director,
New Delhi.

Respondents.

Counsel for the applicant: Sri K.Venkateswara Rao.

Counsel for the respondents: Sri V. Bheemanna.

CORAM:

Hon'ble Sri K. Ranganarajan, Member (A)

Hon'ble Sri B.S. Jai Parameshwar, Member (J)

JUDGMENT.

(per Hon'ble Sri B.S. Jai Parameshwar, Member (J))

--

Heard Sri K.Venkateswara Rao, the learned counsel for
the applicant and Sri V.Bhimanna, the learned counsel for the
respondents.

On 19--2--1997 none appeared for the applicant in

Ju

by Letter dated 20-4-1993 without taking into account the appellate orders dated 30-6-1992 and not recommending for promotion as illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution.

..... have filed their counter stating that the Screening Committee had considered the Censure and also the adverse remarks in the C.K. of the applicant for the year 1991-92. The contention of the respondents with regard to these aspects were not succinct and clear. Hence, we directed the learned counsel for the respondents to place before us the ^{Selection} Committee Proceedings. Accordingly, they have placed before us the ^{Selection} Committee Proceedings. On a perusal of the same, we find the name of the applicant at Sl..o. 346. The column 'Integrity' against his name is left blank. For the years 1989-90, ^{to} 1990-91 it is mentioned as 'O.K' For the year 1991-92 it is mentioned as "Censure, Adv." For the year 1992-93, it is mentioned as "O.K."

On going through the Screening Committee Proceedings, it is clear that the applicant was okeyed (O.K) for all the 4 years except for the year, 1991-92 and the entries made under the year 1991-92 give us an impression that the Screening Committee took into consideration the Censure awarded by the Disciplinary Authority and

at a later stage was with an intention to deprive his legitimate chances of promotion; that on 19-5-1993 he had submitted a representation against the adverse remarks and that the same had not yet been disposed of, when the DPC., considered his case.

However, the Screening Committee did not recommend the case of the applicant for promotion.

By an Order dated 4-7-1994 certain juniors to the applicant were promoted to the post of Officers.

The main grievance of the applicant is that the Screening Committee had taken into consideration the punishment of censure confirmed by the Appellate Authority and also the adverse remarks contained in his C.R., for the year 1991-92 in not recommending his case for promotion.

He filed this C.A., for a declaration that he is entitled for promotion to TES Group-B with effect from the date on which his immediate juniors were promoted to the said post vide Order No. TA/STA/70/4/VIII/5, dated 4-7-1994 with all consequential benefits such as Pay and allowances seniority and other attendant benefits by holding the action of the respondents in denying his legitimate claims for promotion to the said post on the untenable ground that the Screening Committee which has

based its recommendations on adverse remarks communicated

Jai

The learned counsel for the respondents after scrutinising the Confidential Report of the applicant for the year 1991-92 confirmed that there were no adverse entries against the applicant for the year 1991-92 except that he had been censured. The term "Censure" is recorded against the Column 'Integrity'. It is not understood why the word "Censure" should be recorded against the column "Integrity" If his integrity is not proved then he should have been communicated with suitable remarks about his integrity, such as reliable or unreliable. The recording of punishment entry viz., "Censure" in the column "Integrity" is in our humble view, improper.

Whether "Censure" can be treated as an adverse remark for treating the applicant unfit for promotion for that year is a point for consideration. A reading of the reply of the respondents gives us a feeling that the respondents themselves are of the opinion that the punishment of censure cannot be a reason for denying promotion to the applicant. In any case, we do not want to go into that question at this juncture. We will leave it to the Review DFC., for consideration of this aspect of the matter keeping in view our above observations.

R

confirmed by the Appellate Authority and also the adverse ~~en~~ entry in the C.R., for the year, 1991-92.

The learned counsel for the respondents submits that the adverse entry found in the C.R. for the year 1991-92 was intimated to him on 30-4-1993 and that he had submitted a representation for amending the same through his representation dated 19-5-1993. Further, it is his contention that censure is not a punishment which can be taken note of by the Screening Committee to hold that the applicant was not fit for promotion.

During the course of arguments, the learned counsel for the respondents attempted to make out a case that during the year, 1990-91 there were adverse remarks against the applicant and that the Authorities had considered in Pros., dated 13-10-1992 and had passed the order. We are not prepared to accept the said contention because the respondents have not taken such a ground in clear terms in their counter. We cannot permit the learned counsel for the respondents now to contend that the recommendation of the ^{selection} Screening Committee for the year 1990-91 as O.K. ^{is not correct.} cannot be accepted. Hence the recommendation of the ^{selection} Screening Committee for the year 1990-91 treating it as O.K., cannot be nullified.

Je

through the Screening Committee or not would be necessary
in accordance with the Rules.

In view of the above discussion, the following
directions are given to the respondents:

- i) A review D.F.C., should be constituted to
consider the fitness or otherwise of the
applicant for promotion to the post of
SES Gr. "B".
- ii) If the applicant is found fit by the
Review D.F.C., he is entitled for all
consequential benefits.
- iii) Time for compliance is three months from
the date of receipt of the copy of this
Order.

In the result, the O.A., is ordered accordingly.

प्रमाणित प्रति costs.
CERTIFIED TO BE TRUE COPY

सहायक न्यायाधीश
COURT OFFICER
केन्द्रीय प्रशासनिक न्यायिकरण
Central Administrative Tribunal
हैदराबाद न्यायपीठ
HYDERABAD BENCH
HYDERABAD BENCH
RECEIVED 1900
COURT OFFICER
दस्तावेज न्यायिकरण

CERTIFIED TO BE TRUE COPY

CASE NUMBER	OA/1048/94
DATE OF ORDER	14-10-97
COPY	20-10-97