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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.866/95

Date of Order: 5.1.96

BETWEEN:

Jamna Singh .. Applicant.

A N D

1. Union of India, rep. by Secretary, Rly. Board, Rail Bhavan, New Delhi.
2. Chairman, Railway Board, Rail Bhavan, New Delhi.
3. Member Traffic, Railway Board, Rail Bhavan, New Delhi.
4. Secretary, Dept. of Personnel, Ministry of Home Affairs, Govt. of India, New Delhi.
5. General Manager, S.C.Rly., Rail Nilayam, Secunderabad.
6. Shri Shanti Narain, Advisor (Commercial), Railway Board, New Delhi - 110 001.
7. Shri R.M.Das, Chief Commercial Manager, S.E.Rly., Garden Reach, Calcutta.
8. Shri Vijay Kapoor, Chief Operations Manager, Western Railway, Bombay.
9. Shri R.A.Pandey, Chief Operations Manager, N.E.Rly., Gorakhpur.
10. Shri Govind Ballabh, Chief Operations Manager, Northern Railway, Baroda House, New Delhi.
11. Shri N.Rajan Kutty, Chief Commercial Manager, Southern Railway, Madras.
12. Shri P.K.Dikshit, Chief Operations Manager, Central Railway, Bombay VT.

.. Respondents.

Counsel for the Applicant .. Mr.P.Krishna Reddy

Counsel for the Respondents .. Mr.K.Ramulu Jr. & Co.

.. Mr.N.V.Ramana & Co.

AM 1678

CORAM:

HON'BLE SHRI JUSTICE V. NEELADRI RAO : VICE CHAIRMAN

HON'BLE SHRI A.B.GORTHI : MEMBER (ADMN.)

CA 866/95.

Dt. of Order: 5-1-96.

(Order passed by Hon'ble Justice Shri V.Neeladri Rao,
Vice-Chairman).

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The case of the applicant was considered for promotion to the post of Additional Secretary in the scale of Rs.7,500-7,600 but his name was not included in the panel published under Railway Board's letter dt.9-7-94. Being aggrieved, the applicant filed this O.A. praying for direction to the respondents 1 to 5 to include his name in the panel for the post of Additional Secretary Grade in the scale of Rs.7,300-7,600 by interpolating his name in between the names of Sri G.T.Kanchan and Sri Shanti Narain and to further direct the respondents to fix his pay in the grade of Rs.7,300-7,600.

2. As it is a matter for consideration on perusal of the relevant record, the respondents were required to produce the minutes in regard to the relevant selection and also the ACRs of the applicant. They were produced for perusal by the Bench only. We perused them (returned after perusal). It is categorically mentioned in the proceedings of the minutes of the Selection Committee ~~held~~ ^{which met} on 4-10-93 for empanelment to posts in the grade of Rs.7,300-7,600 from Indian Railway Traffic Service (IRTS) that the Selection Committee carefully screened the record of officers and their assessment was given in the fitness column of the relevant annexure.

3. Para-3 of the D.O. letter No.89/289-B/Secy/Admin dt.

26.9.89 prescribed the procedure for promotion from J.A.

grade to S.A. grade, and from S.A. Grade to Additional Secretary grade (Rs.7,300-7,600 in the Railway Services). Column-III (ii, (d) of the DO letter dt.26-9-89, referred to herein before, is relevant for consideration of this L.A. and it reads as under :-

" The Selection Committee would not be guided merely by the overall assessment, if any, that may be recorded in the CRs, but will make its own assessment on the basis of the entries in the CRs."

The above para and the other relevant paras of the DO letter dt.28-9-89 were placed before the Committee which met on 4-10-93. It is evident from para-III (ii)(d) that the Selection Committee has to make its own assessment on the basis of the entries in the CRs and they are not guided by merely overall assessment, if any, that may be recorded in the CRs. As the Selection Committee already observed that they have carefully screened the record of the officers, it follows that the MCRs, which form the main record for such assessment at the time of ~~previous~~ selection were also ~~placed~~. The CRs contain the self appraisal report by the officer and also the assessment by the reporting, reviewing, and accepting authorities. The assessment by all the three officers form part of the one and the same sheet. Hence there is no reason to infer that the selection committee had not looked into the grading given to the applicant by the reporting officers in the relevant years.

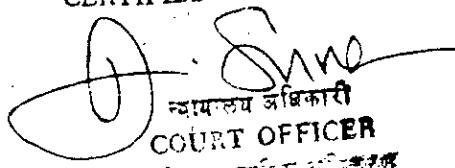
(B)

- 10 -

4. When nothing was imputed to the members of the Selection Committee and when it is ~~open~~ ^{mandatory} to the Selection Committee to have their own assessment on the basis of the entries in the LMS, we do not find any ground warranting interference in regard to the assessment given by the Selection Committee ~~in~~ ^{with reference} to the applicant ~~as~~ ^{as} per the annexure referred to.

5. The S.O./ is dismissed accordingly. No costs.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY


न्यायालय अधिकारी
COURT OFFICER
केन्द्रीय न्यायालय अधिकारी
Central Administrative Tribunal
केन्द्रीय न्यायालय
HYDERABAD BENCH

24/1/96

Copy to :

1. Union of India, rep. by Secretary, Railway Board, Rail Bhavan, New Delhi.
2. Chairman, Railway Board, Rail Bhavan, New Delhi.
3. Member Traffic, Railway Board, Rail Bhavan, New Delhi.
4. Secretary, Department of Personnel, Ministry of Home Affairs, Government of India, New Delhi.
5. General Manager, S.C.Rly., Rail Nilayam, Secunderabad.
6. One copy to Mr. P. Krishna Reddy, Advocate, CAT.Hyd.
7. One copy to Mr. N.V. Ramana, ~~Editor~~ Rlys, CAT.Hyd.
8. One copy to Mr. K. Ramulu, ~~Editor~~ SC for Rlys, CAT.Hyd.
9. One copy to Library, CAT.Hyd.
10. One spare copy.

pvm

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8.5.96
Conrad
1996
S. 1.9.6
30.1.96


Review Pet.

BEFORE THE BENCHER CENTRAL
ADMINISTRATIVE TRIBUNAL
AT HYDERABAD.

R.P. No. of 1996

in

O.A. No. 866 of 1995.



~~R.P.~~
~~1/3/96~~
~~1/3/96~~

Review Petition

=====

Received
Copy to K. Ramulu
for K. G. Sona
1/3/96

M/s. P. Krishna Reddy &
Smt. P. Sarada,

Counsel for the Applicant
Applicant

Reddy
1/3/96

(17)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

RP.21/96 in OA.866/95

dt.17-2-97

Between

Jamna Singh

: Petitioner

and

1. Union of India, rep. by
Secretary, Railway Board
Rail Bhavan, New Delhi

2. Chairman
Railway Board
Rail Bhavan, New Delhi

3. Member Traffic
Railway Board, Rail Bhavan
New Delhi

4: Secretary
Dept. of Personnel
Min. of Home Affairs
Govt. of India, New Delhi

5. General Manager
SC Rly., Rail Nilayam
Secunderabad

■ Respondents

Counsel for the applicant

: P. Krishna Reddy
Advocate

Counsel for the respondents

: K. Ramulu
SC for Railways

CORAM

HON. MR. JUSTICE M.G. CHAUDHARI, VICE CHAIRMAN *Wll*

HON. MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

Judgement

Oral order (per Hon. Mr. Justice M.G. Chaudhari, VC)

Mr. P. Krishna Reddy for the applicant. The Review application having been placed for preliminary hearing we have heard the learned counsel for the petitioner.

1. At the material time the applicant was working as Chief Commercial Manager in South Central Railway in the grade of Rs.5900-6700. He filed the OA with the grievance that his name was not ~~wrongly~~ included in the panel for the post of Additional Secretary's grade in the scale of Rs.7300-7600 the panel having been published on 9-7-94 and prayed for a direction to the respondents to include his name. Shortly after filing the OA the applicant retired from Railway service on superannuation on 31-12-1995. The application was resisted by the respondents. Inter-alia they contended that the name of the applicant was considered alongwith others as per the procedure prescribed, twice, for the panels approved in July 1993 and December 1994 but he was not selected on the ^{consideration} basis of his overall performance.

2. The then learned Division Bench which heard and disposed of the OA by order dated 5-1-1996 after calling the ACRs of the applicant for the relevant years and the minutes of the Selection Committee were of the view that there was no ground warranting interference in the assessment given by the Selection Committee with reference to the applicant. Consequently, the OA was dismissed by the



said order. The applicant seeks review of the aforesaid orders.

3. Mr. P. Krishna Reddy, learned Senior Counsel for the applicant submitted that assessment made by the Selection Committee was vitiated in respect of the applicant in as much as adverse comments recorded against the applicant in the ACR for the year 1988-89 by the Reviewing authority appeared to have influenced its mind and since these remarks were adverse and had not been communicated to the applicant, the applicant taking them into account has vitiated the assessment.

4. Learned counsel referred to the decision of the Hon. Supreme Court in UP Jalanigham Vs. Prabhat Chandra Jain (AIR 1996 SC 1661) in which it was ~~held~~ reported that where an entry in the ACR is down graded and the authority ~~doing~~ showing so does not record reasons therefor on the personal file of the employee and the ~~change~~ made is not communicated to the employee in the form of advise such change cannot be sustained. Mr. P. Krishna Reddy submitted that such is the situation in the instant case.

5. In order to appreciate this argument we enquired as to which particular change in the gradation made in what year and by what officer has according to the applicant vitiated the assessment made by the Selection Committee. The learned counsel stated that for the year 1988-89 although the Reporting officer had graded the applicant as "Very Good" and although that entry ~~afforded~~ ^{was accepted} by the Reviewing authority yet the Reviewing authority had also made an endorsement that the applicant was not fit for promotion to the posts mentioned therein ^{he} being Traffic Officer. When we asked the learned counsel as to ~~what~~ ^{how} basis the applicant had



✓ access to the ACR and has been able to make such grievance,
 ✓ although the learned counsel submitted that this endorsement has
 ✓ not been communicated to the applicant and when it was
 disclosed to him by the then Bench after perusal of the
 ACRs that were produced, that he became aware of the same.
 ✓ This very argument implies that this was not a ground
 which could be urged in the OA. We find the source of
 knowledge as submitted not acceptable. The order of the
 ✓ Bench does not quote record the so called endorsement as from having
 ✓ been found in the record. Bench also has not referred to
 ✓ any details in respect thereof. If the Bench had intended
 to disclose the confidential entry to the applicant that
 would certainly have been mentioned in the order, parti-
 cularly because the ACR record was produced by the
 respondents after it was stated in the affidavit made by
 the Chairman, Railway Board, that although he has no
 objection to the document being produced for the perusal
 of the Bench without making the same available to the
 other party since privilege was claimed in respect of the
 those documents. It is, therefore, unlikely that the Bench
 would have disclosed the confidential endorsement to the
 applicant.

6. Even otherwise the so called endorsement which accord-
 ing to the applicant has been made in the record is taken
 into account although amounted to an expression of opinion
 by the Reviewing authority that the applicant would not be a
 fit person
 fitted for promotion to certain posts he being a Traffic
 officer. It is, however, pertinent to note provision to know that the
 Review Officer has not altered the gradation given by the
 Reviewing Officer i.e. "Very Good" and for the purpose of
 the Selection Committee, that gradation was available.



Unless it was a case of the applicant that the Members of the Selection Committee ignoring the gradation were influenced solely by the further endorsement supposedly made by the Reviewing Officer, no ~~advantage~~ addition can be gained by the applicant from these circumstances.

7. We make it clear that since the applicant has produced before us what according to him the entry happens to read, we have dealt with those aspects and we do not proceed on the basis that the entry reads as stated and we also do not see any necessity to see it again in the original.

8. It is well established that the Selection Committee has to make an overall assessment of the candidate and is not to be solely guided by the assessment made annually by the concerned officers in the ACRs. When it is claimed by the applicant that he was "Outstanding" earlier and "Very Good" in 1988-89, it has to be presumed that the Selection Committee had applied its mind to the entire record and gradations. The Division Bench has noted in the order that nothing was ~~implied~~ ^{earlier} implied to the Selection Committee and ^{when} it is necessary to the Selection Committee to have their own assessment on the basis of the entries in the ACRs and other relevant records no ground was found to warrant interference in the assessment made by the Committee. We cannot take any different view in a Review Application. The judgement also shows that even after perusing the ACRs of the applicant which were produced, it was observed that the assessment ^{made} by all the three officers form part of one and the same, hence, there is no reason to ^{infer that} interfere with the Selection Committee had not looked into the grading given to the applicant by

full

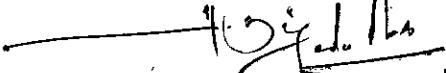
the Reporting Officers in the relevant ~~orders~~ ^{years}. This approach of the Bench cannot be interferred with in ~~any~~ Review application.

9. It is averred in the Review application that the fact that the Review officer had spoiled the 1988-89 CR by recording that the applicant was not fit for promotion and that was ^{not} communicated to him. That was not considered by the Bench on the ground that the entire record was before the Selection Committee and thus there occurs error apparent on the face of the record. It further avers that although it was contended ^{before} for the Tribunal that the Selection Committee had relied ^{upon illegal} ~~on likely~~ evidences before it that was not considered by the Bench and that is also an error. It is tried to be explained in the application that the contention of the applicant was not that the Selection Committee had not looked into the grading of the Reporting Officer but was that the Reviewing / Accepting authority ought not to have changed the grading down ^{by} grading ^{it} to the detriment of the applicant ^{without} offering him an opportunity and thus making it part of the CR ~~is~~ illegally. Even according to the applicant, the applicant ^{he} was ^{he has grievance as regards} not shown down graded but if one goes by what the applicant is shown a certain endorsement was additionally put. The very contention therefore is misconceived. All these contentions are not open to be considered on merits as these have been covered by the discussion in the original judgement and it cannot be stated that the Bench had committed an error does manifest ^{on record} calling for interference in the said judgement. If the conclusions of the Bench on merits were not acceptable to the applicant, the only

W.M.

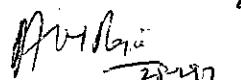
remedy for him was to make a grievance before ~~an~~ the
~~appropriate~~ appropriate forum and there is no ground to entertain
the Review application.

10. Consequently, the RA is rejected.


(H. Rajendra Prasad)
Member (Admn.)


(M.G. Chaudhari)
Vice Chairman

Dated : 17 Feb., 97
Dictated in Open Court


Deputy Registrar (D) cc.

sk

R.A.21/96

To

1. The Secretary, Railway Board,
Union of India, Railbhavan,
New Delhi.
2. The Chairman, Railway Board,
Railbhavan, New Delhi.
3. The Member(Traffic)
Railway Board, Railbhavan,
New Delhi.
4. The Secretary, "ept.of Personnel,
Ministry of Home Affairs, Govt.of India,
New Delhi.
5. The General Manager,
SC Rly, Railnilayam, Secunderabad.
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25/4/97
I COURT

TYPED BY

CHECHED BY

COMARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE M.G.CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR.H.RAJENDRA PRASAD
MEMBER(ADMN)

Dated: 17 - 2 - 1997

~~ORDER~~ JUDGMENT

Case/R.A/CA. No. 21/96

in

Off.No. 866/95

T.S.No.

(W.P.)

Amitted and Interim Directions
Issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

pvm.

