

(27)

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
OA No.1328/95

Tuesday the 3rd day of March 1998

CORAM

HON'BLE MR A.V. HARIDASAN, VICE CHAIRMAN (Ekm Bench)
HON'BLE MR H. RAJENDRA PRASAD, ADMINISTRATIVE MEMBER

P.Subba Raju
S/o P. Satyanarayana Raju
R/o Malkajgiri, Hyderabad
working as Senior TTE in the o/o
Chief Ticket Inspector (MG)
Secunderabad Railway Station
Secunderabad.

...Applicant

(By advocate: S. Lakshma Reddy)

Versus

1. Divisional Railway Manager/MG
Hyderabad Division
Personal Branch, South Central
Railway, Secunderabad.
2. Senior Divisional Personal Officer/MG
Secunderabad Railway, Hyderabad. ...Respondents.

(By advocate Mr V Rajeshwara Rao)

The application having been heard on 3.3.98, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR A.V. HARIDASAN, VICE CHAIRMAN (EKM BENCH)

The applicant is aggrieved by the action of the respondents in not promoting him to the grade of HTTE in the scale of Rs. 1400-2300 regularly with effect from 1.3.1993 under restructuring by modified selection methods. At the point of time when the applicant was being considered for promotion he was facing a departmental disciplinary proceedings for a major penalty. The disciplinary authority by his order dated 30.9.93 imposed on him a penalty of reduction to the post of TTE in the scale of Rs. 1200-2040 fixing his pay at Rs. 1200/- for a period of 24 months with recurring effect and loss of seniority. The penalty

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was reduced to one of reduction to the post of TTE in the scale of Rs. 1200-2040 and fixing his pay at Rs. 1200/- for a period of one year non-recurring and without loss of seniority. The applicant was not recommended by the Departmental Promotion Committee for promotion as HTTE on a regular basis with effect from 1.3.93. According to the applicant, the reason for not recommending the applicant for promotion was the pendency of major penalty proceedings. If the case of the applicant was properly considered as only minor penalty was imposed the DPC should have recommended his case for promotion as many other officers who had been undergoing penalty were recommended by the Departmental Promotion Committee (DPC). The applicant maintains that his service records are of uniformly good nature and that there had not been any occasion for him to receive any adverse remarks in Annual Confidential Report (ACRs). Therefore, the applicant has prayed that it may be declared that the action in not considering the applicant afresh in the light of revised/modified punishment after the order of the Revisional Authority and for a direction to the respondents to have his case further considered.

2. The respondents in their reply statement has contested the claim of the applicant. It is contended by the respondents that the case of the applicant was duly considered for promotion in accordance with the modified selection process and that the pendency of the departmental proceedings for imposition of a major penalty was not at all a factor in finding that the applicant was not suitable for promotion. The DPC on an overall assessment of his service records and ACRs could not recommend him for promotion and therefore the applicant is not entitled to any relief according to the respondents.

3. We have heard the learned counsel for the applicant as also the counsel for the respondents. The learned counsel for the applicant admit that the promotion in question though was by a modified selection process was by selection. What was dispensed with was only written test and viva-voce. The grading of "Outstanding" was also dispensed with. In other respects it was a case of selection. It is not uncommon that during selection a senior may be superseded by a junior. As there has never been any communication to him of adverse entry in the ACR it was the fact of pendency of the departmental disciplinary proceedings that pulled the applicant down in the assessment by the DPC and, therefore, as the penalty was reduced in review, it is a fit case where his case has to be considered afresh, argued the counsel. As the applicant has been duly considered by the DPC unless there is proof of malafides or violation of any statutory rules, interference with the decision of the DPC is not justified. There is no such a situation in the case on hand.

4. Hence, the application is dismissed.

No costs.

Dated 3rd March 1998.


(H. RAJENDRA PRASAD)
ADMINISTRATIVE MEMBER


(A.V. HARIDASAN)
VICE CHAIRMAN (EB)

aa.


Deputy Registrar

17/3/98
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE A V Hari Prasad
VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

DATED: 3-3-1998

ORDER/JUDGMENT:

M.A./R.A./C.A.No.

Q.A.No. 1328/957

T.A.No. (W.R)

Admitted and Interim directions
Issued.

Allowed

Disposed of with direction

Dismissed.

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

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