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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A. No. 958/96

DATE OF ORDER : 26.8.1998

BETWEEN :

Manne Surya Prakash Rao ... Applicant

AND

1. The Director,
Intelligence Bureau
Ministry of Home Affairs
Government of India
North Block, New Delhi.
2. Deputy Director, Subsidiary Intelligence Bureau
7th Floor, Taramandal Complex
Hyderabad 4.
3. The Central Intelligence Officer,
Ministry of Home Affairs
Government of India
Vijayawada.

... Respondents

Counsel for the Applicant - Shri S. Ramakrishna Rao
Counsel for the Respondents - Shri K. Ramulu

Coram :

The Hon'ble Justice Shri D.H. Nasir - Vice Chairman
The Hon'ble Shri H. Rajendra Prasad - Member (A)

(Order per Hon'ble Shri H. Rajendra Prasad, Member (A))

Heard Shri S. Ramakrishna Rao for the Applicant and
Ms Shyama Sundari for Shri K. Ramulu for the Respondents.

The Applicant, while he was posted as Security
Assistant in the Indian Embassy at Minsk, Bylo-Russia
was proceeded against under Rule 16 of GCS (CCA) Rules,
1965, reportedly on grounds of misconduct/misbehaviour.
When he became subsequently due for promotion to the post
of Junior Intelligence Officer on completion of 8 years

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of service in 1994, the relevant DPC placed their recommendations in his case in a sealed-cover. During the next year i.e., in 1995, he was declared fit and promoted as J.I.O. on 22.11.1995.

2. The contention of the Applicant is that the DPC (held in 1994) which found him unfit appears to have been influenced by the fact that a charge-sheet under Rule 16 of CCS (CCA) Rules, 1965, was pending at that point of time. It is, however, now revealed that the charges were later dropped and, thereafter, the sealed-cover containing the findings of the DPC was opened and it was revealed that the Committee had found him unfit for promotion to the rank of JIO Grade II. The Applicant argues that inasmuch as the charges had later been dropped altogether, any inference, conclusion - or even an impression - and recommendation reached or made, evidently due to the fact of the pendency of the said proceedings at the time, would also need a suitable modification. In other words, the lapses leading to the disciplinary proceedings which apparently formed the basis for the recommendations of the Committee having become non-existent in law (on account of the charges having been dropped), the recommendation of the Committee would themselves have to be regarded as not valid any more, and should, therefore, be suitably altered.

3. There is obvious force in the argument of the Applicant. It is not known under what circumstances and on the strength of what assurances it was decided to drop the charges levelled against the Applicant. However, since it was decided to close the case, whatever the reasons leading to that decision, it follows that, if it is true that the charges were indeed dropped and if the DPC based their recommendation entirely on

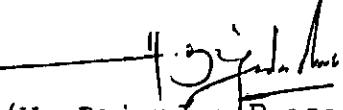
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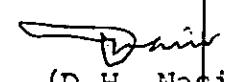
the then pending charge-sheet, the same is in need of receiving a fresh look. Furthermore, it needs to be borne in mind that a minor penalty, even if imposed, could not normally have been a bar to promotion.

4. In the light of the position explained above, it becomes necessary to direct the Respondents to have a Review DPC convened in respect of the Applicant for judging his suitability for promotion to JIO Grade II in respect of vacancies which were placed before and considered by the DPC in 1994. Such a review DPC shall have to ignore the fact of the then pending minor penalty proceedings against the Applicant, but it shall, of course, be entirely free to assess his suitability for promotion applying all other relevant criteria prescribed for such promotion. If the Review DPC finds him fit, the Respondents should consider whether any promotion based on the recommendation of the Review DPC shall entitle the promotion to be taken back to a date given to his immediate junior's promotion in supersession of the Applicant. It is further contended by the Applicant that, should the Review DPC for promotion find him fit from 1993, he shall also be entitled to the arrears of the difference of pay between that drawn by him as Security Assistant and due to him as JIO Grade II cadre. This aspect may be considered by the Respondents as per rules and law.

Necessary action in this regard may be initiated and completed within 3 months from the date of receipt of a copy of this judgement and a suitable decision in the case shall be communicated to the Applicant within a month thereafter.

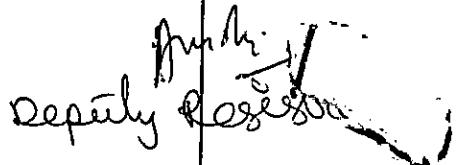
Thus the O.A. is disposed of. No costs.


(H. Rajendra Prasad)
Member (A)


(D.H. Nasir)
Vice Chairman

DICTATED IN OPEN COURT
DATED : 26.8.1998

...js/-


Deputy Registrar

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OA 958/96

To

1. The Director, Intelligence Bureau
Ministry of Home Affairs, Govt. of India,
North Block, New Delhi.
2. The Deputy Director, Subsidiary Intelligence
Bureau, 7th Floor, Taramandal Complex,
Hyderabad-4.
3. The Central Intelligence Officer,
Ministry of Home Affairs, Govt. of India,
Vijayawada.
4. One copy to Mr. S. Ramakrishna Rao, Advocate, CAT. Hyd.
5. One copy to Mr. K. Ramulu, Addl. CGSC. CAT. Hyd.
6. One copy to GHHRP.M. (A) CAT. Hyd.
7. One copy to DR(A) CAT. Hyd.
8. One spare copy.

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CHECKED BY APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE D.H.NASIR:
VICE-CHAIRMAN

AND

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

DATED: 26-8-1998.

ORDER/JUDGMENT

M.A./K.A./C.A.NO.

in

O.A.No.

958/96

T.A.No.

(W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

p.v.m.

