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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH  
J A I P U R .

CA 621/1993

Date of order: 7.10.1995

Nand Lal Gupta : Applicant

vs.

Union of India and others : Respondents

Mr. R.N. Mathur, counsel for the applicant  
Mr. M. Rafiq, Counsel for the respondents

CORAM:

HON'BLE SHRI O.P.SHARMA, MEMBER (ADMINISTRATIVE)  
HON'BLE SHRI RATTAN PRAJAPATI, MEMBER (JUDICIAL)

O R D E R

(HON'BLE SHRI O.P.SHARMA, MEMBER (ADMINISTRATIVE))

In this application under Section 19 of the Administrative Tribunals Act, 1985 Shri Nand Lal Gupta has prayed that impugned order (Annexure A-1) dated 12.5.1993 by which the applicant's appeal against his non-promotion to PSS Group 'B' was rejected may be quashed with a direction to the respondents to promote the applicant to the post of PSS Group 'B' alongwith other candidates who were selected by the DPC held in the year 1991 and to show his name at appropriate place in the selection list of 1991. There is a further prayer that the respondents may be directed to protect the seniority of the applicant amongst other candidates declared selected to the post of PSS Group 'B' in 1991.

2. The applicant's case is that he joined the Department of Posts as L.D.C. on 1.4.1958 and got promotion thereafter from time to time. When he was working on the post of Assistant Superintendent of Post Offices he was considered for promotion to the

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post of PSS Group 'B' on the basis of seniority-cum-fitness vide CPMG Rajasthan Circle, Jaipur letter dated 31.5.1991 (Annexure A-4) but was not selected. Since he was eligible for promotion he was again considered for selection vide CPMG Rajasthan Circle, Jaipur letter dated 27.7.1992 (Annexure A-5). Since the applicant was sufficiently senior and had spot-less service record, his name was within the zone of consideration by both the DPCs of the year 1991 and 1992. When his name did not appear in the promotion list on the basis of the DPC held in 1992, he filed an appeal under Rule 23(IV) of the C.C.A.(C.C.S.) Rules against his non-promotion. The appeal preferred by him was rejected vide order dated 12.5.1993 (Annexure A-1). The appeal was not decided in accordance with the rules and Government instructions on the subject. Non-inclusion of the applicant's name in the selection list made him to believe that there might have been some adverse remarks in his ACRs but no such remarks were communicated to him. Other relevant instructions with regard to his promotion have also not been followed by the respondents.

3. The respondents in the reply have stated interalia that there were no adverse remarks in the ACRs of the applicant which were not communicated to him. However, according to them if the performance of a candidate is not better than the other candidates, he will have to be listed below the better performers and may go out of the select list. They have added that the applicant's name was duly considered by the DPCs held in 1991 and

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and 1992 but the applicant could not be promoted as he did not get the required grading for promotion. According to them, it is only the performance that is above average which would entitle a person to promotion. They have further stated that the appeal preferred by the applicant was rightly considered and decided by the Appellate Authority as per rules.

4. During the arguments, the learned counsel for the applicant stated that he had earlier moved an application for production of the records and the said application had been allowed. Therefore, a perusal of the record of the DPC and other related records would reveal whether the applicant was rightly ignored for promotion or whether he is entitled to promotion. The learned counsel for the respondents produced before us the grading made by the department of the candidates in the zone of eligibility for being considered by the DPC and the selection list drawn by the DPCs both for 1991 and 1992. These records were perused. It was found that the applicant had been graded as 'average' on the basis of his ACRs both for the purpose of DPCs 1991 and 1992. A perusal of the records produced also shows that no person who had secured the grading 'average' had been granted promotion. Therefore, in these circumstances, it could not be said that the applicant had been wrongly excluded from the selection list or that there was any discrimination

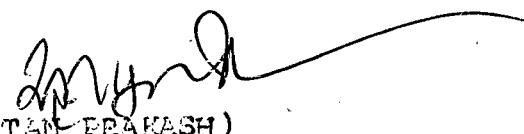
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against him on the ground that some others who had also secured average grading had been included in the selection list.

5. In these circumstances, we find no merit in this application. It is, therefore, dismissed with no order as to costs.

  
(RATTAN PRAKASH)  
MEMBER (H)

  
( O.P. SHARMA )  
MEMBER (A)