

(14)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH
JAIPUR.

O.A.No.45/93

Dt. of order: 3.11.'93

G.L.Verma

: Applicant

Vs.

Union of India & Ors.

: Respondents

Mr.S.P.Sharma

: Counsel for applicant

Mr.S.C.Mittal

: Counsel for respondents
No.2 & 3

CORAM

Hon' ble Mr.Gopal Krishna, Member (Judl.).

Hon' ble Mr.O.P.Sharma, Member (Adm.).

PER HON' BLE MR.O.P.SHARMA, MEMBER(ADM.).

Applicant G.L.Verma, has filed this O.A. under Sec.19 of the A.Ts Act, 1985, wherein he has prayed that the respondent No.1,i.e. the Union of India, may be directed to consider the case of the applicant and include him in the select list for the year 1992-93 prepared in March 1992 for promotion to the Indian Administrative Service (I.A.S) by holding a review meeting and promote him if he is found fit. There are certain other prayers also but the learned counsel for the applicant has stated at the time of hearing that the applicant does not want to press other grounds and prayers.

2. The applicant was appointed to R.A.S. in 1973 (in 1974 according to the respondents). In his application the applicant has extensively reproduced the relevant portions of the Indian Administrative Service (Appointment by Promotions) Regulations, 1955, which have a bearing on the case of the applicant. The applicant's case is that his name should have been placed before the Selection Committee meeting held in March 1992 but it was not placed before the said Committee.

The possible reasons for exclusion of his name from consideration by the Selection Committee which met in March 1992 could be the adverse entries in his ACRs for the year 1985-86 on the basis of the raid by the Anti Corruption Department. This adverse entry was expunged in October 1992. There was also an adverse entry in the ACRs of the year 1986-87 which could also possibly ^{by} the basis of exclusion of his name from being placed for consideration before the Selection Committee. In this connection, the applicant filed a Writ Petition before the High Court of Rajasthan. (In the rejoinder to the reply of the respondents, the applicant has stated that the said adverse entry was deleted by the Hon'ble High Court). There was also a charge-sheet against the applicant in a criminal case. The Revision Petition filed by the applicant before the Rajasthan High Court against the said charge-sheet was dismissed by the High Court as no charges had yet been framed against the applicant. According to the applicant, since one adverse entry had been expunged, the other was under challenge and no charges had yet been framed in respect of the criminal case filed against the applicant, there was no justification for exclusion of his name from being placed before the Selection Committee which met in March 1992.

3. During the arguments, the learned counsel for the applicant stated that now both the adverse entries in the ACRs stood deleted and no charges had been framed against the applicant at the time when the selection Committee met in March 1992, there was no reason why the name of the applicant should not have been placed before the Selection Committee.

(1)
LCC

4. The respondents in their reply have taken certain objections to the application which are purely technical in nature. They have made a categorical statement that the name of the applicant was placed before the Selection Committee which met in March '92, but the applicant was not found meritorious enough for inclusion in the Select List, hence according to them there is no ground for holding a Review Meeting of the Selection Committee for a fresh consideration of the applicant's name.

5. During the arguments, the learned counsel for the respondents stated that on an over all assessment of the service record of the applicant he was graded as 'Good'. It was for this reason that his name was not included in the Select List. According to him since the applicant was graded as 'Good', the adverse entries in the ACRs for 1985-86 and 1986-87 must not have been considered by the Selection Committee while arriving at the above grading. He further stated that a fresh Selection Committee meeting had been held in October 1993 and the applicant's name had been considered by the said Committee. The purpose of holding a Review Meeting of the Selection Committee has therefore been served by the applicant's name being placed before the said Selection Committee meeting held in October 1993. He has therefore urged that there is no ground for holding of a review selection committee meeting at this stage.

6. We have heard the learned counsel for the parties and have examined the records. From the minutes of the meeting of the Selection Committee held in March 1992, it is not known whether the adverse entries in the ACRs of the applicant were taken into account

by the Selection Committee while grading the officer as just 'Good'. The minutes of the meeting of the Selection Committee do not reveal which entries were considered by them and which entries were ignored. Therefore, an ordinary presumption is that since the adverse entries were part of the ACRs at the time when the Selection Committee met, the Selection Committee might have taken into account all the entries in the relevant ACRs including the relevant entries. No doubt a fresh Selection Committee meeting has already been held in October 1993. The argument of the learned counsel for the respondents is that the fresh meeting held in October 1993 serve the purpose of the review meeting of the Selection Committee. We are however of the view that this Selection Committee meeting was a regular annual feature and it was not convened for the purpose of considering the case of the applicant alone, without the adverse entries in his ACRs which stood expunged. In the circumstances of the present case, we are of the view that a review meeting of the selection committee should be held specifically for considering the case of the applicant, for considering his case without the adverse entries in the ACRs which have already been expunged.

7. The criminal proceedings are already pending against the applicant in a court of law. At the time when the Selection Committee meeting was held in March 1992 no charges were framed against the applicant and these have been framed in April 1993. The applicant in his rejoinder to the reply of the respondents has stated that

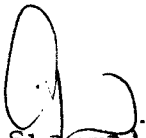
even if a

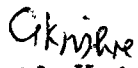
'DE' is pending against the applicant he deserves to be given provisional promotion in accordance with the rules. In the instant case a charge-sheet in

criminal proceedings is pending against the applicant. In such a situation even if after the holding of the review selection committee meeting the applicant is found fit for inclusion in the select list, the inclusion of his name in the said list would be provisional and all the consequences as ~~xx~~ laid down in the Regulations of 1955 relating to inclusion of the name in the select list on a provisional basis will apply.

8. In the circumstances, we direct the respondents to hold a review meeting of the Selection Committee for considering the case of the applicant, in lieu of the meeting held in March 1992, after ignoring the adverse entries for the years 1985-86 and 1986-87. Further, in view of the pendency of the criminal proceedings against the applicant if he is included in the select list, such inclusion shall be provisional and the consequences of such provisional inclusion as provided in the Regulations of 1955 will follow. The respondents shall take necessary action within a period of six months from today.

9. The O.A. is disposed of accordingly with no order as to costs.


(O.P. Sharma)
Member(A).


(Gopal Krishna)
Member(J).