

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.256/93

Dt. of order: 17.11.94

Suresh Chand Dubey

: Applicant

Vs.

Union of India & Ors.

: Respondents

None present for the applicant

Mr. Manish Bhandari

: Counsel for respondents

CORAM:

Hon'ble Mr. Justice D.L. Mehta, Vice Chairman

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

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

In this application under Sec.19 of the Administrative Tribunals Act, 1985, the applicant has prayed that the respondents may be directed to promote the applicant on the post of Head Clerk with effect from the date when his juniors were promoted on 30.8.88 with all monetary and consequential benefits. He has further prayed that the respondents may be directed to treat the suspension period of the applicant from 3.2.88 till passing of the order of revocation order on 20.6.88 as period spent on duty with all consequential payments.

2. From the facts of the case it is seen that 2 charge sheets were issued to the applicant. One was issued on 5.2.88 and the applicant was also placed under suspension. Subsequently, however, this charge sheet was withdrawn and the order of suspension was revoked. Another charge sheet came to be issued to the applicant on 14.10.91. As a consequence of the latter charge sheet, a minor penalty was imposed on the applicant. As regards the first charge sheet, it was issued to the applicant in the year 1991 on was the same charges in as much as the earlier charge sheet/said to have been issued by an authority which was not competent to issue it. When the applicant's case for consideration for promotion to the post of Head Clerk came up in the year 1988, there were no disciplinary proceedings pending against him nor was he under suspension as the charge sheet issued on 5.2.88 was withdrawn. As a consequence it has to be assumed that on the date when the

applicant's name came up for consideration during 1982 for promotion to the post of Head-Clerk, there was no charge sheet against the applicant. Therefore, the case of the applicant for promotion has to be considered on the basis of the material and the service record as on the date of the holding of the DPC without taking into consideration either the charge sheet dated 5.2.82 or the suspension order passed as a consequence of the said charge sheet. The respondents are directed to convene a Review DPC and to consider the case of the applicant afresh in the light of the position explained above. They shall carry out this exercise within a period of 4 months from the date of the receipt of a copy of this order.

3. As regards the applicant's claim for pay and allowances for the period of suspension, the respondents are directed to pass an order appropriate order under FR 54-B taking into account the facts and circumstances of the case within a period of 4 months from the date of the receipt of a copy of this order.

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


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


(D.L.Mehta)
Vice Chairman.