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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

OA No. 139/94 : Date of order 16.5.94

Surjan Singh : Applicant

V/s

Union of India & Others : Respondents

Mr. Virendra Lodha : Counsel for the applicant

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

Hon'ble Mr. P.P. Srivastava, Member (A)

HON'BLE MR. JUSTICE D.L. MEHTA, VICE-CHAIRMAN

Heard the learned counsel for the applicant. The applicant's contention is that he was charge-sheeted only once and earlier punishment was awarded which was set aside by the Appellate Authority and directions were given for denvo enquiry. In the denvo enquiry the punishment of censor has been awarded and the applicant had filed an appeal which has also been rejected.

2. The applicant has invited our attention to Annexure A-1 and submit that there is no adverse record except the punishment. In Annexure A-1, it has been mentioned that the facts were considered and he was found unfit due to unsatisfactory service record. Mr. Lodha vehemently argued the case submitted that in OA no. 986/91 decided on 31.1.94, it was held that the pendency of enquiry is not a bar in giving promotion. This judgement does not apply in the facts and circumstances of the case. This is the case in which the enquiry was pending under Rule 14. Here the enquiry is not pending but the applicant has been punished. So pendency cannot be the ground for rejection. It may be a ground for deferring the consideration of promotion but it cannot be a ground for rejection. Apart from that once an authority has considered and said specifically that the service record is unsatisfactory, we cannot substitute our opinion and pass a order that the applicant should be promoted. The persons who do not work to the satisfaction of the society are superseded and are

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shunted out. The persons who stand on merits should get promotion and this is the need of the society. In the facts and circumstances of the present case, we cannot interfere to pass an order in favour of the applicant. OA is dismissed.


(P.P. SRIVASTAVA)

Member (A)


(D.L. MEHTA)
Vice-Chairman