

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,
JAIPUR

Date of decision: 1-11-1995

CA No. 468/94

Habib

.. Applicant

VERSUS

Union of India and others

.. Respondents

CORAM:

HON'BLE MR. O.P. SHARMA, MEMBER (A)
HON'BLE MR. PATTAN PRASAD, MEMBER (J)

For the Applicant

.. Mr. S. Kumar

For the Respondents

.. Mr. M. Rafiq

ORDER

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

In this application under section 19 of the Administrative Tribunals Act, 1985, Shri Habib has prayed that the respondents may be directed to allow the applicant to appear in the selection for the post of Gangmate (Permanent Waymate) being held in pursuance of the order dated 4-7-94 (Ann.A2) and if the selection is over, the respondents should be directed to conduct a supplementary test in respect of applicant and allow him all the consequential benefits at par with his juniors.

2. It may be mentioned here at this stage that the applicant had earlier filed an CA No. 324/89 which was disposed of by order dated 24-4-94. The facts of that CA as gleaned from the said order are that the

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applicant while officiating on the post of Mate was charge-sheeted for major penalty vide charge sheet dated 28-8-85. He had already passed the requisite trade test for the post of Keyman which was the next higher post but his promotion to the said post had been with-held due to pendency of the disciplinary proceedings. The applicant had, however, meanwhile been promoted to the post of Keyman purely on ad-hoc basis. In view of the pendency of the disciplinary proceedings he had not been promoted to the post of Keyman on a regular basis. The Tribunal by the above mentioned order dated 29-1-94 had directed the respondents to finalise the disciplinary proceedings within a period of six months and had further directed that if the applicant is exonerated of the charges framed against him, he may be considered for grant for promotion on a regular basis as per turn.

3. The disciplinary proceedings have since been finalised and as per Annexure-R1 dated 17-1-95, a penalty of censure has been imposed on the applicant.

4. In the present application, the applicant's case is that he is now eligible for the promotion to the post of Gangmate scale Rs. 950-1500 on regular basis on the basis of selection. The notification for holding selection for the aforesaid post was issued vide order dated 4-7-94 (Ann.A2). When the applicant appeared for the said selection on 23-8-94, his selection was not conducted and he was informed that his case for promotion will not be considered till the disciplinary proceedings against him are finalised. His grievance is that a number of his juniors have been allowed to appear in the selection for the said post and the disciplinary Authority has not been finalising the disciplinary proceedings inspite of specific directions of the Tribunal. He has assailed the action of the respondents in not permitting him to appear in the said selection as illegal and arbitrary and he is also aggrieved by the delay of 8 years in finalising the disciplinary proceedings.

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5. The respondents in their reply have stated that the applicant had passed the suitability test for the post of Keyman (which post he is now holding on ad-hoc basis) but due to major penalty proceedings pending against him, he was not promoted on the said post on a regular basis. For a person to ^{be} promoted on the post of Gangmate (Permanent Waymate) he has first to be a Keyman. Since the applicant was not a Keyman on regular basis, his name was erroneously included in the eligibility list for the post of Gangmate. In view of the penalty of censure imposed on the applicant, on conclusion of the disciplinary proceedings, the applicant has no case for being considered for promotion on regular basis to the post of Gangmate in pursuance of the notification dated 4.7.94 (Ann.A2).

6. We have heard the learned counsel for the parties and have perused the record. Admittedly, the applicant is not holding the post of Keyman on regular basis but he is functioning only on ad-hoc basis. The channel of promotion is that a Keyman can be promoted to the post of Gangmate, but since the applicant is holding the post of Keyman only on ad-hoc basis, he has been rightly considered by the respondents as not being eligible for consideration for promotion to the post of Gangmate. Therefore, the prayer made in the relief clauses, that the applicant should be considered for promotion to the post of Gangmate by holding the selection is not tenable and is, therefore rejected.

7. However, the disciplinary proceedings against the applicant have already been finalised by the respondents by passing order dated 17-1-1995 (Ann.B1). The respondents should now consider the case of the applicant for regular promotion to the post of Keyman

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as per rules. If after consideration of the case of the applicant, he is found suitable for promotion as Kayman ^a on/regular basis, they may pass necessary orders and thereafter also consider him for future promotions in accordance with the rules. The OA is disposed of accordingly with no orders as to costs.


(Rattan Prakash)
Member (J)


(O.P. Sharma)
Member (A)