

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH, JAIPUR

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Date of order: 22-1-1997

OA No. 515/94

Shri Gehimal since deceased represented by Smt. Kamla  
his wife and legal representative.

.. Applicant

Versus

1. Union of India through Secretary, Ministry of  
Communications, Department of Posts, New Delhi.
2. Director Postal Services, Rajasthan Eastern  
Region, Ajmer.
3. Superintendent, RMS, "J" Division, Ajmer.

.. Respondents

Mr. K.L.Thawani, counsel for the applicant

Mr. V.S.Gurjar, counsel for the respondents

CORAM:

Hon'ble Mr. Gopal Prishna, Vice Chairman

Hon'ble Mr. O.P.Sharma, Administrative Member

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Per Hon'ble Mr. O.P.Sharma, Administrative Member

In this application under Section 19 of the  
Administrative Tribunals Act, 1985, Shri Gehimal  
has prayed that order Ann.A1 dated 7-6-94 by which  
the applicant was informed that the DPC had considered  
his case for promotion under the Time Bound One  
Promotion (TBOP) scheme on 1-6-94 but had not  
recommended his case for promotion due to unsatisfactory  
records of service, may be quashed and the respondents  
may be directed to promote the applicant in Lower  
Selection Grade w.e.f. 1-7-1991.

2. The applicant's case is that he was appointed  
as Sorting Assistant in the Railway Mail Service  
w.e.f. 1-7-1975. He was due for promotion to Lower  
Selection Grade under TBOP scheme w.e.f. 1-7-1991

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on completion of 15 years of service. The DPC held during 1991, 1992 and 1993 did not consider the applicant's case for promotion on the grounds that a penalty of withholding of one grade increment for 18 months was imposed on the applicant vide order dated 15-3-1979 and that a criminal case against the applicant was pending trial in the court of Additional Chief Judicial Magistrate (Railway), Jodhpur. However, the penalty order dated 15-3-1979 was set-aside by the Jaipur Bench of the Tribunal vide order dated 27-1-93 passed in TA No. 86/92 (Ann.A3). Further, in the criminal case filed against the applicant, he was acquitted vide judgment dated 13-7-1993 (Ann.A4). Thereafter, the applicant requested the respondents to decide the case of his promotion to Lower Selection Grade. However, vide communication dated 7-6-94, the applicant was informed that the DPC held on 1-6-1994 had not recommended the case of the applicant for promotion to Lower Selection Grade under TBOP scheme on completion of 15 years of service. The applicant's representation dated 30-6-1994 to the Director, Postal Services, Ajmer has also been rejected vide communication dated 27-9-1994.

3. The applicant's case is that the DPC while considering his case for promotion should have ignored the remarks in the Annual Confidential Reports relating to imposition of penalty on him and also the fact of his being tried on a criminal charge, in view of the fact that the departmental penalty imposed on the applicant had been set-aside by the Tribunal and in the criminal proceedings

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the applicant had been acquitted.

4. The respondents in their reply have stated that the applicant was considered for promotion by the DPCs for the year 1991, 1992, 1993 and 1994 but was not granted promotion on account of his unsatisfactory records.

5. We have heard the learned counsel for the parties and have gone through the material on record.

6. It is undisputed now that vide Ann.A3 dated 27-1-93 the Tribunal has already set-aside the penalty imposed on the applicant and that in the criminal proceedings initiated against the applicant he has been acquitted vide ~~judgment~~ dated 13-7-93 (Ann.A4). The adverse material against the applicant referred to above can no longer stand in the way of applicant's promotion.

7. In these circumstances, we hold that the case of the applicant should be reviewed for grant of promotion to the Lower Selection Grade under the TBOP scheme, ignoring the adverse material against the applicant reference to which has already been made above. After ignoring the material as referred to above, the applicant's case should be considered for promotion on merits in accordance with the rules beginning from the DPC which was held for the first time for promotion due in 1991. The review exercise shall be carried out by the respondents within a period of four months from the date of receipt of this order.

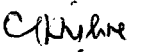
8. Before parting, we may state that the applicant had expired during the pendency of this OA. His widow, Smt. Kamla has already been brought on record as his Legal Representative. Thus on reconsideration of the

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case, of the applicant, if the applicant is found eligible for promotion w.e.f. any interior date, the Legal Representative would be entitled to get consequential benefits of such promotion.

2. The QA stands disposed of accordingly with no order as to costs.

  
(O.P. Sharma)  
Administrative Member

  
(Gopal Krishna)  
Vice Chairman