

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIFUR BENCH, JAIPUR

Date of order: 6-5-96

RA No. 14/96 (OA No. 593/94)

Raghu Nath Singh .. Applicant

Versus

Union of India and other .. Respondents

ORDER

PER HON'BLE MR. O.P.SHAFMA, ADMINISTRATIVE MEMBER

In this Review Application Shri Raghu Nath Singh has prayed that the order dated 1-2-1996 passed by this Bench of the Tribunal in OA No. 593/94, Raghu Nath Singh Vs Union of India and others, may be recalled and the case may be reheard, because there is a illegality in the order passed by the Tribunal which is apparent on the face of the record.

2. OA No. 593/94 was disposed of by the Tribunal by order dated 1-2-1996 at the stage of admission with the consent of the parties. The OA had been filed on account of the applicant's being aggrieved by denial of promotion to him in the Junior Administrative Grade of the Indian Telecom Service Group-A scale Rs. 3700-5000 which is made on the basis of seniority-cum-suitability. The applicant was stated to have been ignored for promotion though he was within the zone of consideration and had good service record. It was also alleged that his case had not been considered by the Departmental Promotion Committee for want of complete service records/CRs. The Tribunal had observed, after going through the averments of the respondents, that the applicant's case had been duly considered by the Screening

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Committee on the basis of his 5 years' Annual Confidential Reports but he could not be granted promotion as the Screening Committee had assessed him as "not yet fit". When the Screening Committee had found the applicant as not yet fit for promotion on a careful consideration of the applicant's Annual Confidential Reports for the preceding 5 years, the Tribunal held that it can not interfere with the assessment made by the Screening Committee. The Tribunal, therefore, held that the application was not maintainable. This assessment, i.e. finding the applicant as not yet fit for promotion, was with a view to considering him for promotion on adhoc basis. The Tribunal, therefore, further directed that as and when regular promotions are made to the Junior Administrative Grade, the applicant's case may be considered afresh in accordance with law. With these observations, the OA was disposed of.

3. In the present Review Application, the applicant has stated that the respondents in their reply had accepted that promotion to Junior Administrative Grade of Indian Telecom Service Group-A was on the basis of seniority-cum-suitability. Since there had been nothing adverse in the ACES of the applicant and there was no disciplinary or vigilance case pending against him, yet the Screening Committee had not found him fit for promotion without indicating any reasons for this conclusion. The Tribunal had, however, still decided that it cannot interfere with the assessment made by the Screening Committee. The Screening Committee is not synonymous with the Departmental Promotion



Committee. The Screening Committee had no reason for reaching the conclusion that the applicant was not yet fit for promotion and the Tribunal had also seriously erred in considering that the expression "not yet fit" meant unfit for promotion. In the cases of adhoc promotions, a senior person is entitled to be promoted until he is declared unfit for promotion on legally sustainable grounds. The applicant has relied on judgement of the Hon'ble Supreme Court in Dharam Vir Singh Tomar Vs Administrator, Delhi Administration and others, (1991) 17 ATC 925 to suggest that the expression "fitness" means that there should not be any adverse entry in the ACRs of the person concerned at least for the last 3 years and no disciplinary proceedings should be pending against him. Since there was no adverse entry in the ACRs of the applicant and further since no disciplinary proceedings were pending against him, he was entitled to be declared fit for promotion and therefore, was entitled to promotion to the Junior Administrative Grade.

4. We have considered the matter carefully. We are of the view that the Review Application can be disposed of by circulation, without issuing notices to the parties concerned.

5. We have once again gone through the pleadings. The reply filed by the respondents to the OA shows that while regular promotion to the Junior Administrative Grade is on the basis of selection, promotion to this post on adhoc basis is on the basis of seniority-cum-fitness and for this purpose ACRs of the preceding 5 years are to be considered. The cases

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of officers falling within the zone of consideration are considered by the Screening Committee whereas promotion on regular basis can be considered by a duly constituted and prescribed Departmental Promotion Committee. The respondents did not dispute that the applicant was within the zone of consideration. It was their case that the applicant's case for adhoc promotion was duly considered by the Screening Committee which after screening the ACRs for the preceding 5 years found him "not yet fit for promotion". The Tribunal had also in its order dated 1-2-1996 stated that while considering the applicant's case for adhoc promotion to the Junior Administrative Grade, the Screening Committee had come to conclusion that the applicant was not yet fit for promotion. When a Screening Committee is appointed to go through the Annual Confidential Reports of the persons falling within the zone of consideration, it has to make its assessment on the basis of the entries/ observations in the ACRs. The applicant had himself conceded in para 4(3) of the OA that no adverse remarks had been conveyed to the applicant except for the period from 1-4-1992 to 28-8-1992 which too were not agreed to by the Reviewing Authority. The applicant had not indicated any basis in the OA in support of the averments that the Reviewing Authority had not agreed with the adverse remarks recorded by the Reporting Officer in the ACR for the period 1-4-1992 to 28-8-1992. The applicant had not prayed either in the OA or at any stage during the arguments that the Tribunal should call for and go through the ACRs of the applicant to find

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out whether in fact there was anything in the ACRs which justified the Screening Committee's conclusion that the applicant was not yet fit for promotion. Therefore, on going through the pleadings and after hearing the oral arguments, the Tribunal had concluded that the assessment of the Screening Committee could not be interfered with. We find no error in the order of the Tribunal which is apparent on the face of the record, to justify a review of the order dated 1-2-1996. What the applicant now seeks is in fact a reconsideration of the Tribunal's decision on merits, which is beyond the scope of review as per provisions of Order XXXXVII Rule 1 of the Code of Civil Procedure.

6. This Review Application is, therefore, dismissed in limine.

By circulation.

(O.P.Sharma)

Administrative Member

Gopal Krishna
(Gopal Krishna)

Vice Chairman