

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

R.A.No.57/95

Date of order: 17.10.1995

Union of India & Ors. : Applicants

Vs.

N.O.Sharma : Respondents

CORAM:

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

Hon'ble Mr.Ratan Prakash, Member(Judl)

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

In this Review Application, the Union of India and certain others who were official respondents in O.A.No.895/92 Shri N.O.Sharma Vs. Union of India & Ors, have sought a review of the order dated 31.8.1995 passed in the said O.A.

2. In the order dated 31.8.1995, the Tribunal had held that the applicant should be presumed to have been promoted to the senior scale Rs.1100-1600 ^{on the recommendations of} the DPC held in December 1980 and that he would be entitled to increments falling due after the period commencing from 10.8.1976. The finding regarding the applicant's fitness for promotion on the basis of the recommendations of the DPC held in Dec. 1980 was given because a document Annx.P2, annexed by the respondents to their reply which was supposed to show that the applicant had been held unfit for promotion related actually to another subject and that the respondents had categorically expressed their inability before the Tribunal to produce the records of the DPC or other records relating to the consideration of the case of the applicant for promotion on the ground that these were now not available as these pertain to 1980. The order regarding entitlement to increment was given because the applicant was deemed to have continued in service till his normal superannuation and increments are granted without any formal orders being required to be passed.

2. The official respondents in the O.A, who have now sought

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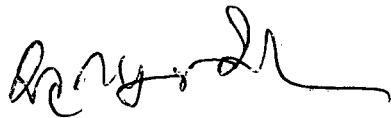
a review of the order of the Tribunal have stated that Annx.R2 annexed to the reply of the respondents to the O.A. had wrongly been affixed due to inadvertence and that the correct communication to be annexed was the one which is now annexed as Ex.II to the present Review Application. This document Ex.II dated 20.12.80 is a communication from the General Manager to the Divisional Railway Manager, stating that the applicant's request for promotion to senior scale has been considered and it is regretted that he has not been found fit for promotion to senior scale. The earlier communication annexed as Annx.A2 to the reply to the O.A stated that the applicant had misbehaved in the DEE(W)'s office. Therefore, on the ground that Ex.II now annexed to the Review Application shows that the applicant was found unfit for promotion to senior scale, they have sought a review of the finding of the Tribunal that the applicant should deemed to have been promoted to senior scale in December 1980. As regards the Tribunal's direction for grant of increments from 10.8.1976, the parties seeking review have however not made any specific prayer for review.

3. As regards the direction relating to the promotion of the applicant to senior scale from Dec.1980, it is no doubt true that the earlier Annx.A2 annexed to the reply to the O.A was not at all relevant to the averment of the respondents that the applicant had been found unfit for promotion. This however was not only the ground on which the averments of the parties seeking review that the applicant was found unfit for promotion had not been accepted. The other reason was that the respondents had expressed their inability to produce the record relating to the DPC or other records relating to the consideration of the case of the applicant for promotion which could have show whether the applicant had found unfit for

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promotion by the DPC. There is no mention about the records being available even now. Therefore, in the absence of the original records the contents of the communication Annx.Ex. II cannot be relied upon for coming to the conclusion that the applicant was found unfit for promotion ^{on the recommendations of} ~~by~~ the DPC. In these circumstances, the prayer for review of the order of the Tribunal in so far as it contains directions for promotion of the applicant is untenable and is accordingly rejected. As regards grant of increments, no specific prayer has been made in the Review Application for seeking a review of the findings of the Tribunal in this regard.

4. In these circumstances, the Review Application is rejected in limine.



(Ratan Prakash)

Member(J)



(O.P. Sharma)

Member(A).