

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 12.12.2000

OA 83/98

V.K.Gaur, Horticulture Assistant Grade-I, Department of Archaeological Survey of India, ~~xxxxxx~~ at Deeg Palace, Bharatpur.

... Applicant

v/s

1. Union of India through Secretary, Department of Archaeological Survey of India, Ministry of Education and Culture, New Delhi.
2. Director General, Archaeological Survey of India, Janpath, New Delhi.
3. Chief Horticulturist, Archaeological Survey of India, Taj Mahal, Agra.
4. Dy. Superintending Horticulturist, Archaeological Survey of India, Safdarjung, New Delhi.
5. Shri P.P.Rao, Horticulture Assistant Grade-I, Deptt. of Archaeological Survey of India, Palampet, Hyderabad.
6. Shri M.A.H.Mantri, Horticulture Asstt. Grade-I, Deptt. of Archaeological Survey of India, Bijapur.

... Respondents

CORAM:

HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER

HON'BLE MR.A.P.NAGRATH, ADMINISTRATIVE MEMBER

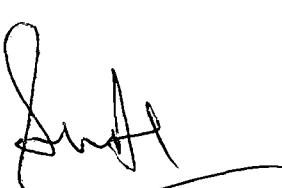
For the Applicant ... Mr.C.B.Sharma

For the Respondents ... None

O R D E R

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER

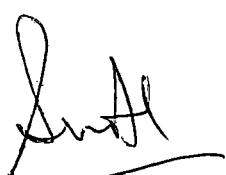
In this OA, filed u/s 19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to direct the respondents to promote him from the date



when his juniors were promoted, with all consequential benefits. Further prayer is also made to quash the order dated 9.3.98, at Ann.A/1, x in respect of respondents no.5 and 6, holding the order arbitrary, illegal and unjustified.

2. Reply was filed. In the reply it is specifically mentioned that case of the applicant for promotion as per provisions of recruitment rules was duly considered by the DPC but due to pendency of disciplinary inquiry against the applicant, findings of the DPC have been kept in sealed cover as per rules. Therefore, action of the respondents is within the framework of law and procedure applicable and not contrary or violative of any provisions of Articles 14 and 16 of the Constitution. It is also stated in the reply that as soon as the disciplinary case pending against the applicant is decided and the applicant is exonerated of the charges, he will be considered for promotion as per rules in force. It is also stated in the reply that promotion to the post of Senior Horticulture Assistant is based upon seniority-cum-merit. Therefore, in view of the reply filed, it is stated that this OA is devoid of any merit and liable to be dismissed as such.

3. Heard the learned counsel ~~for~~ for the applicant and also perused the whole record.



4. From the reply filed by the respondents it is abundantly clear that the applicant was not promoted in view of the pending disciplinary proceedings against him and his case has been kept under sealed cover. It is also stated that as soon as the disciplinary case pending against the applicant is decided and the applicant is exonerated of the charges, he will be considered for promotion. In view of the undisputed factual position, we are not inclined to issue any direction to the respondents to consider the candidature of the applicant for promotion till the disciplinary proceedings are over and sealed cover is opened. However, we direct the respondents to conclude the disciplinary proceedings against the applicant as early as possible.

5. The OA stands disposed of accordingly with no order as to costs.

Champ
(A.P.NAGRATH)

MEMBER (A)

S.K.Agarwal
(S.K.AGARWAL)
MEMBER (J)