

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH; JAIPUR

Dated this Twenty first day of November two thousand three

Original Application No. 63/2000

CORAM

The Hon'ble Mr. J.K. Kaushik, Judicial Member.

The Hon'ble Mr. A.K. Bhandari, Administrative Member.

Vipin Chandra Sharma S/o Shri Mata Din Sharma, aged around 42 years, resident of II/8 Gandhi Nagar, Jaipur, Presently posted as Member, Board of Revenue, Rajasthan, Ajmer.

Applicant.

Rep. By Mr. P.P. Mathur : Counsel for the applicant.

Versus

1. The Union of India through Secretary, Ministry of Personnel Public Grievances and Pension, Department of Personnel, Government of India, New Delhi.
2. State of Rajasthan, through Secretary, Department of Personnel, Government of Rajasthan, Secretariat, Jaipur.

Respondents.

Rep. By Mr. U.D. Sharma, Counsel for the respondents.

ORDER

Per Mr. J.K. Kaushik, Judicial Member.

Shri Vipin Chandra Sharma has filed this O.A. for seeking a direction to the respondents to modify the order dated 12.03.99



(Annex. A.1) , by including his name and also for promotion to Super Time Scale(STS for short) in the list of persons promoted to STS with all consequential benefits amongst other reliefs.

2. Filtering the unnecessary details, the material facts relevant for resolving the controversy involved in this case are that the applicant is a member of Indian Administrative Service (IAS for short), Rajasthan cadre of 1982 batch. Six of his juniors were given promotion in STS of IAS, vide order dated 12.03.99. The applicant has been given the said promotion vide order dated 08.12.99. As per rules in effect, STS is above Selection Grade and it cannot be given regardless of seniority. The applicant was promoted to the Selection Grade of IAS in the year 1995. In August, 1995, he went on study leave for two years and reported back in March 1998 after completion of his study. The degree of MBA was conferred upon him with distinction. APAR for the period 1.4.96 to August 1996 was not given to the applicant and the same remains unfilled. ACR for the period November 1995 to 31.03.96 was only available before the Screening Committee. Therefore, he was entitled for promotion to STS on the basis of available records. He was also issued with a certificate indicating that his performance was excellent during election. As per his service records he deserves to be reported as 'Outstanding' . The application has been filed on a number of grounds mentioned in para 5 of the O.A and in view of the order we will be passing in this case, narration of the same is not necessary.

3. Detailed and exhaustive reply has been filed on behalf of respondent No. 2. It has been averred that the applicant was not found suitable and meritorious enough for promotion and only the



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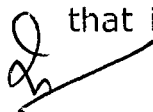
Review Screening Committee found him suitable and promoted him accordingly. The other contentions have been generally denied.

4. We have heard the learned counsel for the parties at a considerable length and have carefully perused the records and pleadings in this case. Further the respondents were fair enough to produce the relevant records for perusal of the Tribunal.

5. Both the learned counsel have reiterated their pleadings and grounds set out in the O.A. The learned counsel for the applicant has stressed that on the basis of the same records, the applicant was promoted to the Selection Grade and when there was no adverse remarks he ought to have been promoted to STS. He has apprehension that the ACR for the period 01.04.96 to August 1996 was not filled up and that may be reason for not granting him the STS along with his juniors.

6. On the other hand, the learned counsel for the respondents submitted that the records may be perused and he placed reliance on the judgement of this Tribunal in **Rajhuns Upadhyaya vs. Union of India and another** [O.A. No. 12/99 decided on 20.11.2002], wherein similar controversy was involved and was settled by the Tribunal rejecting the contentions of the applicant therein. He invited our attention to paragraphs 20,21,22 and 23 of the Judgement.

7. We have considered the rival contentions and carefully perused the records and pleadings of the case. We have seen that the ACR for the period in question has been taken into consideration and during that period there was improvement in his performance and that is the reason he was given STS subsequently. The law on the



point of judicial review of the DPC proceedings is very limited and we do not find any reason to carry out judicial review.

8. However, it is profitable to refer to paras 20 to 24 of the judgement referred to above, which has been relied on by the learned counsel for the respondents. It reads as under:

"20. As to the contention of the learned counsel of the applicant that there was no change of circumstances within nine months when the applicant was found meritorious for promotion to the Super Time Scale in the meeting held on 23.09.98, it may be stated that before the meeting of 23.09.98, the APAR of the applicant for the year 1997-98 had reached, in which the applicant was rated as 'very good' by all the authorities. There being improvement in one of the APARs, it has to be accepted that justice was done to the applicant when he was allowed promotion in the meeting held in September 1998.

21 It is faintly argued that the review could be made only after the availability of the two more reports. The provision in this regard in the Annexure dated 27.12.75 cannot be said to be of mandatory nature. When the government found that the applicant was fit for promotion on the basis of one more report only, no valid objection can be taken against his promotion. As a matter of fact, the applicant has been benefited by the act of the respondents.

22. One of the contentions of the learned counsel for the applicant was that there is no provision in the Pay Rules 1954 permitting the Screening Committee to adopt its own procedure. The procedure which has been adopted by the Screening Committee is in vogue for the last many decades. It has stood the test of the time. The applicant cannot question the procedure adopted by the Screening Committee when the same procedure has been adopted in respect of all the candidates considered for promotion. No case of discrimination is made out.

23. Having considered all the contentions raised on behalf of the parties and having gone through the material on record, we do not find that the denial of promotion to the applicant was arbitrary or without just cause. No case of interference by the Tribunal is made out.

24. Consequently, we dismiss this O.A being devoid of substance. No order as to costs."

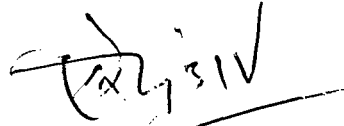
9. A bare perusal of the aforesaid paragraphs would reveal that similar position was involved as that of the instant case and therefore



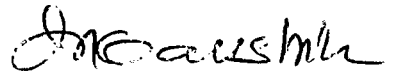
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the present controversy is squarely covered by the above said decision and we have no option except to adopt the same and decide this O.A on similar lines.

10. In the premise, the O.A has no force and the same fails and stands dismissed. No order as to costs.



(A.K. Bhandari)
Administrative Member



(J.K. Kaushik)
Judicial Member.

Jsv.