

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of order : 10.8.2001

T.A. No. 02/2000

Shri Dhanmal Shringi son of Shri Ram Narainji resident of Kota, presently working as Teacher, Kendriya Vidyalaya, Kota.

... Applicant.

versus

1. Central School Organisation through its Chairman, New Delhi.
2. The Commissioner, Central School Organisation, Nehru House, 4th Floor, Bahadurshah Zafar Marg, New Delhi.

... Respondents.

Mr. S.P. Sharma, Counsel for the applicant.

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

CORAM:

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman

Hon'ble Mr. Gopal Singh, Administrative Member

: O R D E R :

(Per Hon'ble Mr. Justice B.S. Raikote)

The applicant had filed a Civil Suit No. 3/87 in the Court of learned Additional Munsiff No. 1 (North), Kota, for a declaration and injunction. In the Suit, he sought for a declaration that the applicant (plaintiff) was entitled for promotion to the post of Post Graduate Teacher (PGT, for short) on the basis of the notification dated 26.7.70, or in the alternative, from the date his juniors were promoted to the post of PGT. He also sought for a declaration that the applicant's non-promotion by the Departmental Promotion Committee (DPC, for short) held on 2.9.82, on the basis of which the order dated 23.10.82 was issued, is illegal. The applicant has further sought



that he should be promoted to the post of PGT from the date, his juniors were promoted. He also sought for an injunction restraining the respondents from promoting any person till an appropriate decree is granted by the Court, on the basis of DFC.

2. In the Suit, the applicant contended that he was senior to some of the persons, who have been promoted to the post of PGT, overlooking the seniority of the applicant. He also contended that he has passed M.A. with third division, and he was eligible for promotion to the post of PGT. He also contended that the DFC, which met on 3.9.82, has not considered his Annual Confidential Reports (ACRs, for short) and the seniority, and without considering his case, certain persons were promoted from TGT to PGT illegally, and the same is liable to be set aside with a direction to the respondents to promote the applicant on the post of PGT.

3. By filing reply statement, the respondents have denied the case of the applicant, contending that at the relevant point of time, the applicant was not eligible for promotion, since he had passed M.A. with third division. They also contended that the DFC, which met on 3.9.82, considered his case alongwith the others, but the applicant was not found fit for promotion from TGT to PGT. Therefore, there is no illegality. The learned Munsiff dismissed the Suit by holding that the applicant was not eligible to be promoted, since he had passed M.A. with third division, and the eligibility for promotion is that one should pass M.A. with second division. He also held that the DFC considered the case of the applicant, but the DFC found him unfit for promotion. In view of these findings, the learned Munsif dismissed the Suit.

4. Being aggrieved by the judgement and decree of the learned Munsif, the applicant preferred an appeal before the District Judge,

Kota. But in view of the notification issued by the Central Government bringing the Kendriya Vidyalaya within the jurisdiction of this Tribunal, the District Judge returned the appeal for being presented before the competent Tribunal. It is in these circumstances, the applicant has filed this present T.A. before this Tribunal. Accordingly, the said application (Suit) was registered and renumbered as T.A. No. 2/2000.

5. The learned counsel for the applicant contended that according to the rules applicable, what is required for such promotion from TGT to PGT is only M.A. pass, but not M.A. with second division. He also submitted that passing M.A. with third division would make the candidate eligible for such promotion, and passing M.A. with second division is not necessary for promotion. He also submitted that the DPC has not considered his case for promotion from TGT to PGT. Even otherwise, the consideration of DPC is illegal inasmuch as the DPC has not considered the ACRs of the applicant properly. Therefore, not promoting the applicant and promoting the applicant's juniors to the post of PGT is illegal.

6. After hearing the case on both the sides, we perused the records of the case.

7. Though the learned Munsiff on the basis of the evidence of the applicant himself held that for promotion to the post of PGT, M.A. with second division is required, and the applicant was not entitled for promotion to PGT having passed M.A. with third division, but in our opinion, passing M.A. with third division has not been a factor for his non-promotion. Passing M.A. with third division was taken as required eligibility for promotion. If the applicant was not eligible for consideration of promotion on the ground that he had passed M.A. with

third decision, the DPC would not have considered his case. But DPC considered his case and ultimately, the applicant's name was not recommended on the basis of his service records. The Ex.3 dated 23.10.82 is an endorsement issued to the applicant, reads as under:-

M E M O R A N D U M

The name of Shri D.M. Shringi, T.G.T. of K.V., Kota, was considered for promotion to the post of P.G.T. (Hindi) by the Departmental Promotion Committee in its meeting held on 2.9.82; but the Committee did not recommend his name for promotion as P.G.T. (Hindi) on the basis of his service records.

No representation against the recommendation of the D.P.C. will be entertained."

8. From the reading of the above, it is clear that the applicant's name was not recommended by the DPC for promotion on the basis of his service records. In these circumstances, the contention of the applicant that his case was not at all considered by the DPC, cannot be accepted. We find that the applicant's case was considered by the DPC in its meeting on 2.9.82, but he was found to be unfit for promotion. At any rate, in view of Ex.3 dated 23.10.82, we asked the respondents to produce the DPC proceedings held on 2.9.82, and they have produced the same before us. From the reading of the said DPC proceedings dated 2.9.82, we find that six persons were found to be unfit for promotion. The applicant was one of those persons, and his name is at sl. No. 4. The DPC found about 56 persons fit for promotion in the order indicated. There was one more category of 29 candidates, whose cases could be considered later after the receipt of complete ACRs, since they were not available, and they would be given appropriate inter-se seniority, if ^{were} ~~they~~ considered fit for promotion. From the proceedings of the DPC, thus, it appears that in all 91 candidates were considered. Out of them, as stated above, 56 were found fit for promotion, 06 were found unfit and the rest of 29 candidates would be considered later after the receipt of their complete ACRs. From these DPC proceedings, it is clear that the applicant was found unfit for promotion on the basis of entire



service records. According to the recruitment rules, the selection was based on the basis of merit-cum-seniority and the inter-se merit of the eligible candidates was required to be considered as (i) Outstanding, (ii) Very Good, (iii) Good, and (iv) Unfit. Out of the candidates found fit, the person at sl. No. 1, Shri M.C. Pant, was graded as 'very good' and other 55 candidates were graded as 'good'. The applicant's name was found in the category of 'unfit' for promotion. Thus, we find that the DPC proceedings dated 1.9.82 do not call for any interference at the hands of this Tribunal. As held by Hon'ble the Supreme Court in AIR 1996 SC 3352 (Smt. Nutan Arvind vs. Union of India and Anr.) and AIR 1997 SC 2656 (Mrs. Anil Katiyar vs. Union of India and Ors.), this Tribunal cannot sit over the assessment made by the DPC as an appellate authority. In the instant case, even the copies of ACRs were made available by the respondents, and we perused all of them, and ultimately, we found that the proceedings of the DPC dated 1.9.82 do not call for any interference. The relative assessment of the merit of the candidate vests with the DPC and this Tribunal finds no grounds to interfere with such proceedings of the DPC. In fact, the learned Munsif in its judgement and decree dated 14.02.91 also held that the proceedings of the DPC dated 1.9.82 were proper and legal, and we do not find any justifiable reasons to interfere with the said findings in judgement and decree also. Accordingly, we pass the order as under:-

"The Transfer Application No. 2/2000 is dismissed. But in the circumstances, without costs."

Gopal S
(GOPAL SINGH)
Adm. Member

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cvr.

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(JUSTICE B.S. RAIKOTE)
Vice Chairman