

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 491 of 2004

this the 23rd day of November 2005

Hon'ble Shri M.P. Singh, Vice Chairman,
Hon'ble Shri Madan Mohan, Judicial Member

S.C. Kanojia, aged 49 years,
Son of late Shri S.R. Kanjia,
1069, Subhash Nagar, Ranjhi,
Jabalpur (MP).

... Applicant

(By Advocate - Shri S. Nagu)

V e r s u s

1. Union of India, through the Secretary, Department of Defense Production and Supplies, Government of India, South Block, New Delhi.
2. Director General Ordnance Factories/ Chairman, Ordnance Factory Board, Ayudh Bhawan, 10-A, S.K. Bose Road, Kolkata - 700 001.
3. Regional Director, Regional Training Institute, (Now known as Ordnance Factory Institute of Learning), Khamaria, Jabalpur (MP).
4. Member (Personnel), Ordnance Factory Board, Ayudh Bhawan, 10-A S.K. Bose Road, Kolkata - 700 001.
5. O.P. Rawat, Joint General Manager, Gan Carriage Factory, Jabalpur, (MP). ... Respondents

(By Advocate - Shri P. Shankaran)

O R D E R

By Madan Mohan, Judicial Member -

By filing this Original Application the applicant has claimed the following main reliefs :

"(i) to declare that the supersession of the applicant to the Junior Administrative Grade and Junior Administrative Selection Grade in the IOFS with effect from 27.4.2000 and 11.7.2001 is unwarranted and unlawful and arbitrary,

(ii) to direct the respondents to consider the case of the applicant for promotion to JAG and JASG with effect from 27.4.2000 and 11.7.2001 by holding review DPC and by treating the adverse remarks of 1998-99 to be non-existent and grant promotion to the applicant to these grades from the said dates with all consequential service benefits."

2. The brief facts of the case are that the applicant was initially appointed as a Member of the Indian Ordnance Factories Group-A Service in June, 1987 by way of direct recruitment as Assistant Works Manager. In June, 1991 the applicant was promoted in the senior time scale on the post of Works Manager. He completed the requisite minimum eligible period of 5 years in the senior time scale in June, 1996 for becoming eligible to be considered for promotion to the next higher grade of Junior Administrative Grade. The performance of the applicant has been appreciated by his superior officers. During the period from 1.4.1998 to ^{never} 31.3.1999 the applicant was/intimated by his reporting authority of any deficiency or irregularity in his work or conduct. Neither the reporting authority advised the applicant to improve his assigned duties. The applicant was not supplied any advisory note or given any notice informing about any irregularities. Two memos dated 10.10.1998 and 14.10.1998 were issued to the applicant by respondent No. 3 taking exception to the non-attendance of the applicant of the ceremonial valedictory of the in-house course in the Regional Training Institute and occasionally late coming to the office by the applicant by about 15 minutes. The applicant sought interview with the respondent No. 3 to explain his points. After explanation of his points the respondent No. 3 was satisfied with the responses of the applicant and the adverse remarks for the appraisal year 1998-1999 contained the observation that "...although lately you are showing improvement". Hence, there was nothing against the applicant. During the aforesaid period the reviewing authority passed the impugned adverse remarks by down grading the overall assessment made by the authority. Finally the approving authority has the view of the reviewing authority.

The applicant was hopeful that his assessment shall be at least very good of work, functioning and conduct by his superior officers. On 31.7.1999 the applicant was communicated with a memo dated 19.7.1999 communicating adverse remarks for the appraisal year 1.4.1998 to 31.3.1999. The adverse remarks were that "you were having indifferent attitude to work, although lately, you are showing improvement". The aforesaid adverse remarks came as a shock to the applicant as neither any express or verbal advisory note was ever given to him during the said appraisal year intimating about the indifferent attitude to work. The adverse remark of the applicant is vague, confusing and contradictory. The applicant preferred representation dated 24.8.1999 and by the impugned order dated 21.10.1999 rejected the representation of the applicant without assigning any cogent reasons. Thereafter, the applicant assailed the adverse remarks by filing OA No. 722/1999. The Tribunal vide its order dated 5.12.2003 directed the respondents to treat the adverse remarks of 1998-99 as advisory not coming in way of applicant's promotion. The Tribunal further directed that the consequential prayer for grant of promotion can be raised by the applicant in a separate OA. On existence of the adverse remarks of 1998-99 the applicant was twice superseded by order dated 27.4.2000 to Junior Administrative Grade and by order dated 11.7.2001 to Junior Administrative Selection Grade. Hence, he has filed the present Original Application.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.

4. It is argued on behalf of the applicant that for the adverse remarks of the year 1998-99 the applicant filed OA

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No. 722/1999 and by order dated 5.12.2003 the Tribunal directed the respondents to treat the adverse remarks of 1998-99 as advisory not coming in the way of his promotion. The Tribunal further directed that the consequential prayer of the applicant for promotion can be raised by filing a separate OA. Nothing adverse was ever communicated to the applicant about his work, conduct and integrity. Even then due to the alleged adverse remarks for the years 1998-99 the applicant was superseded for two times by order dated 27.4.2000 to the Junior Administrative Grade and by order dated 11.7.2001 to Junior Administrative Selection Grade. In view of the aforesaid the applicant is entitled for the aforesaid reliefs.

5. In reply the learned counsel for the respondents argued that a duly constituted DPC for the panel year 2000-01 held on 27/28.3.2000. On perusal of the ACRs of the applicant for last 5 years, the DPC graded him below the bench mark level. Thus, his name was not included in the select list. The supersession of the applicant was within the ambit of the DPC rules. The applicant has no grouse or grievance to agitate this issue before the Tribunal but in-fact he has to blame himself for being graded below the bench mark in the relevant years. Being a faculty who is entrusted with the job of training of Group-C and Group-D if staff, /the applicant himself indulges in such indiscipline and inculcates casualness in his work, then the trainee and probationers only would have to suffer. Under such circumstances the department cannot be a mute spectator to such administrative peril. Hence, the performance of the applicant was rightly endorsed in his annual confidential report. The applicant was subsequently been promoted to the post of Junior Administrative Grade in May, 2003. Both the orders challenged by the applicant i.e. 27.4.2000 and 11.7.2001 are perfectly passed in accordance with the

relevant rules and law. The respondents have not committed any irregularity or illegality while passing the aforesaid impugned orders. Hence, the OA deserves to be dismissed.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records we find that the Tribunal vide its order dated 5th December, 2003 in OA No. 722/1999 has held as under :

"8. After perusal of the records and pleadings and after consideration of the arguments of both the parties, I am of the considered view that this OA can be disposed of by directing the respondents to treat the shortcomings/remarks mentioned in the ACR, pertaining to the year 1998-99, of the applicant are advisory in nature which will not come in the way of the applicant's promotion, etc. I order accordingly.

9. As far as other reliefs of consequential benefits like promotion, etc. are concerned, as the Single Bench has no jurisdiction to pass any orders pertaining to the promotion of the applicant, if the applicant wants to agitate for the above other reliefs, he may file a separate OAs in accordance with rules."

The aforesaid order shows that the respondents were directed by the Tribunal to treat the shortcomings/remarks mentioned in the ACR of the applicant for the year 1998-99 as advisory in nature and it will not come in the way of his promotion etc. We have perused the relevant original records produced on behalf of the respondents with regard to the minutes of the DPC as well as the original ACRs of the applicant. The DPC which met on 27/28.3.2000 has mentioned the name of the applicant at serial No. 5 and was assessed as 'good'. Further the DPC which met on 24.2.2003 found the applicant fit. On perusal of the ACRs of the applicant for the years from 1994-95 to 1998-99, we find that for the year 1994-95 the applicant was assessed as 'very good' by the reporting authority which was agreed by the reviewing authority and accepting authority. For the year 1995-96 he was assessed as 'good' by the reporting authority, average by the reviewing authority and 'good' by the accepting

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authority. For the year 1996-97 he was assessed as average by the reporting authority and no remarks were made by the reviewing and accepting authorities. For the year 1997-98 he was assessed as 'very good' by the reporting authority and there was no remark of the reviewing authority but the accepting authority has also assessed the applicant as 'very good'. Lastly for the year 1998-99 the applicant was assessed as 'very good' by the reporting authority, and no remark was given by the reviewing authority, whereas the accepting authority has graded him as 'good'. The accepting authority has given reasons for down grading the ACR of the applicant for the year 1998-99 from 'very good' to 'good'. In view of this we find that the applicant has been graded as 'very good' for two years i.e. 1994-95 & 1997-98, 'good' for two years i.e. 1995-96 & 1998-99 and average for the year 1996-97. Thus, the applicant cannot be rated as 'very good' by the DPC as he had got only two 'very good' reports out of five reports during the years 1994-95 and 1998-99, and, therefore, the assessment arrived at by the DPC in respect of the applicant cannot be faulted with.

7. In the result, we do not find any merit in this Original Application and the same is dismissed, however, without any order as to costs.

(Madan Mohan)
Judicial Member

(M.P.Singh)
Vice Chairman

पृष्ठांकन सं. ओ/ज्या.....जललपुर, दि.....
संलिखित तात्पर्य द्वारा:-

~~FCB 9/11/05~~