

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
JABALPUR

O.A.No.766/2001

Hon'ble Sh. M.P.Singh, Vice Chairman
Hon'ble Sh..G. Shanthappa, Judicial Member

Jabalpur, this the 19th day of November, 2003

D.P.Thakur
s/o Late Shri Sumer Singh Thakur, aged 58 years,
serving as Draftsman Division-I
r/o 980 Shiv Mandir Compound
Ganga Sagar
Talav Garha
Jabalpur.

... Applicant

(By Advocate: Sh. B.S.Patel)

Versus

1. Union of India through
its Secretary
Ministry of Science & Technology
New Delhi.
2. The Surveyor General of India Office
of Dehradun Uttaranchal (UP) India.
3. The Director Central Circle Survey
of India, Jabalpur.
4. Shri A.T.Venkatesh No.4, D.O.
S.C.Bangalore, State of Karnataka.
5. Shri Satiyamurthy, Gogula No.34
P (SSEC) Hyderabad, State of A.P.
6. Shri M.Narayanan No.4, D.O. (SC)
Bangalore, State of Karnataka.
7. Shri M.Mukherjee No.14, DO(EC)
Kolkata.
8. Shri E.S.Bhandari (Survey)(Air)
New Delhi.
9. Shri Raghunandan Prasad No.94
P (S) New Delhi.
10. Shri Ganga Prasad No.66-P-(SA)
New Delhi.
11. Shri B.S.Ravat, No.66
P (SA) New Delhi.
12. Shri Ram Anugrah Singh No.7
D.O. (CC) Jabalpur (MP).
13. Shri Ram (SC) No.66 P (SA)
New Delhi.
14. Shri Sunderlal Markam (ST)
No.7 DO (SOC) Secunderabad (AP).
15. Shri M.H.Naithani
No.16, DO (MP)
Dehradun (UP) Uttranchal.

16. Shri M.P.Kuril (SC) Survey (Air)
New Delhi.
17. Shri M.B.Bhandari No.15
DO (EC), Kolkata.
18. Shri Kedarnath, D.M.C.Dehradun
Uttaranchal.
19. Shri D.R.Bahuguna (MP Dehradun)
Uttaranchal.
20. Shri B.R.Dhangav (SC) No.34
(N.S.E.C.) Hyderabad (AP).
21. Shri Vijendra Singh No.10
D.O. (S.E.C.).
22. Shri Govind Singh No.11
D.O.(S.E.C.)Bhubaneshwar(Orissa).
23. Shri R.S.Verma No.36-P-(S.T.I)
Hyderabad (AP).

Respondents No.4 to 23 address ^{to} for
services of notices through The
Surveyor of General of India Office
at Dehradun, Uttarnchal (U.P.) India.

.... Respondents

(By Advocate: Sh. B. Dasilva through Sh. Sayed Akthar)

O R D E R (Oral)

By Sh. M.P. Singh, Vice Chairman:

The applicant has filed this OA seeking direction to quash the respondents' orders dated 14.9.2000 (Annexure A/2), 2.5.2001 (Annexure A/3) and 18.10.2001 (Annexure A/8) and has also sought further direction to respondents to place the applicants ^{name} before his juniors with all consequential benefits.

2. The applicant, who is working as Draftsman Division-I, has been considered for promotion (to the post of Chief Draftsman (Gazetted) Gp. 'B') by the Departmental Promotion Committee (DPC) held for 35 posts of Chief Draftsmen on 9.9.2000. However, he was not recommended by the DPC as he was not assessed the required bench mark of relevant 'Good' in the ACRs of the applicant. Thereafter,

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two DPCs were held for filling up of 17 and 13 vacancies of Chief Draftsmen on 10.4.2001 and 5.3.2002 respectively. In both the occasions, the applicant was not recommended by the DPCs for promotion to the post of Chief Draftsman (Group 'B') Gazetted. Thereafter, he filed OA No.481/2001 and the Tribunal vide its order dated 17.8.2001 (Annexure-A/6) directed the applicant to send a fresh representation to the respondents and the respondents were directed to dispose of the representation by passing a speaking order. In compliance thereof, the respondents have informed the applicant vide their letter dated 18.10.2001 that no 'Adverse' gradings were available in the ACR of the applicant, and the bench mark required for promotion to Group 'B' post is 'Good'. It is an admitted fact that the applicant was considered by the DPCs but due to his 'Average' grading in the ACRs, he could not be promoted to the post of Chief Draftsman. Aggrieved by this, he has filed this OA claiming the aforesaid reliefs.

3. Heard the learned counsel for both the parties. The learned counsel for the applicant has stated that he has never been communicated any adverse remarks through out his career. He has also submitted that he has been earlier graded in the ACRs as 'Very Good' and on that basis he has been promoted from the post of TTB Draftsman upto the post of Draftsman Divn. I. on the other hand, the learned counsel for the respondents states that the applicant has been graded as 'Average' whereas the bench mark required for promotion from the post of Draftsman Divn. I to

the post of Chief Draftsman Gr.I is 'Good'. Since the applicant has not been assessed the required bench mark of 'Good', the DPCs could not recommend him for promotion.

4. We have heard the learned counsel for both the parties and we have perused the material placed before us and find that in the ACRs of the applicant, he has been graded as 'Average' and also has been assessed as - 'not fit for promotion' by the competent authority but these remarks have not been communicated to the applicant. Earlier, he had been promoted from the post of TTB to the post of Draftsman Divn.I as he has obtained the required bench mark of 'Good'.

5. According to the consolidated instructions (Part-I) Functions and Composition pertaining to the DPCs printed in Swamy's - Establishment and Administration (Chapter 53 - Promotions) para in/6.3.1 it has been mentioned as under:

(i)

For all Group 'C', Group 'B' and Group 'A' posts (up to and excluding the level of Rs.3,700-5,000), the benchmark would be 'Good' and will be filled by the method of Selection-cum-seniority as indicated in sub-para (iii)."

Since the applicant has been earlier promoted upto the rank of Draftsman Divn.I, as he has obtained the required benchmark of 'Good'. Thereafter, his ACRs have been down-graded to 'Average'. It is an admitted position that the remarks of down-graded ACRs and 'not yet fit for promotion' have never been communicated to the applicant and he has been denied an

opportunity of making representation against the aforesaid remarks.

6. The Hon'ble Supreme Court in U.P.Jal Nigam & Others vs. Prabhat Chandra Jain & Others (decided on 31.1.1996) reported in (1996) 33 ATC 217 has held as under:

"..... As we view it the extreme illustration given by the High Court may reflect an adverse element compulsorily communicable but if the graded entry is of going a step down, like falling from 'Very Good' to 'Good' that may not ordinarily be an adverse entry since both are a positive grading. All that is required by the authority recording confidentials in the situation is to record reasons for such downgrading on the personal file of the officer concerned, and inform him of the change in the form of an advice. If the variation warranted be not permissible, then the very purpose of writing annual confidential reports would be frustrated."

7. Obviously, the respondents have not communicated the downgraded remarks in the ACRs of the applicant and he has been denied his promotion for the post of Chief Draftsman Gr.I. Therefore, we are of the considered view that the order passed by the respondents dated 18.10.2001 (Annexure A/8) is liable to be quashed and is accordingly quashed and set-aside. The respondents are further directed to communicate the downgraded remarks mentioned in the relevant ACRs, to the applicant and give him an opportunity to hear and thereafter a review DPC be held in accordance with the rules and instructions on the subject. It is also further directed the

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respondents to comply with the above directions within a period of three months from the date of receipt of a copy of this order.

8. With this, the OA stands disposed of in terms of the above directions. No order as to costs.

G. Shanthappa
(G. SHANTHAPPA)
Judicial Member

M.P. Singh
(M.P. SINGH)
Vice Chairman

/rao/

पूर्णकान सं ओ/न्या.....जवलपुर, दि.....
चलिलिपि अचेहित:-

(1) दर्शक, अप्प राधाकृष्ण वार एसोसिएट, जवलपुर काउसल श्री B. S. Patel
(2) लोक, विधायिका/कु..... काउसल श्री B. Das, I.A.S.
(3) दस्तावेजी/लिपि/कु.....
(4) विवरण, विधायिका/कु..... रुद्रानन्द अमरेश्वर नाथकान्ते, रुद्रा 2-5-11-03
रुद्रानन्द अमरेश्वर नाथकान्ते, रुद्रा
कृष्ण उप सचिवार

*File No. C
25-11-03*