

THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET

(1) APPLICATION NO.: 531207

Applicant(s)

Advocate for Applicant (s)

Respondent (s)

Advocate for Respondent (s)

NOTES OF THE REGISTRY	ORDERS OF THE TRIBUNAL
<u>28-2-2007</u>	<p>Mr. C. B. Sharma (counsel for applicant) Heard. The OA has been dismissed by a separate order.</p> <p><i>(Signature)</i> (J. P. Shukla) Administrative Member</p> <p><i>(Signature)</i> (M. K. Gupta) Judicial Member</p>

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

OA No.53/2007.

Jaipur, this the 28th day of February, 2007.

CORAM : Hon'ble Mr. M. K. Gupta, Judicial Member.
Hon'ble Mr. J. P. Shukla, Administrative Member.

Nek Ram Verma
S/o Shri Nand Kishore,
Aged about 52 years,
R/o Chandra Ghata, Behind Mahawaton Ki Masjid,
Ward No.31,
Kota.

... Applicant,

By Advocate : Mr. C. B. Sharma.

Vs.

1. Union of India through
General Manager,
West Central Zone, West Central Railway
Jabalpur (M.P.)
2. Chief Personnel Officer,
West Central Railway,
West Central Zone,
Jabalpur (M.P.)
3. Chief Works Manager,
Wagon Repair Shop,
West Central Railway,
Kota Division,
Kota.

... Respondents.

: O R D E R (ORAL) :

Vide office order dated 27.08.2004 the applicant
was empanelled for the post of Chief Office
Superintendent in the pay scale of Rs.7450-11500/- and
placed at Sl. No.4. As per order dated 31.08.2004 the



officials at Sl. No.4&5 vide aforesaid orders were to be promoted on completion of two years service in the feeder scale. It is not disputed that validity of the said Panel was for a period of two years. Immediately thereafter, vide Memorandum dated 16.09.2004 adverse ACR for the period ending 31.03.2004 had been conveyed to applicant. Adverse ACR for the period ending March 2005 was also conveyed to him vide Memorandum dated 5.10.2005. It is not in dispute that the said communications conveying the adverse ACRs have not been challenged. It is also not in dispute that the post in question is a selection post.

2. The grievance of the applicant is that finding unfit for the said post his name from the said Panel has been deleted vide communication dated 30.08.2006. Immediately thereafter, respondents issued another office order dated 22.01.2007 indicating in specific that validity of the Panel had been two years and finding him unfit, he was removed from the said Panel. On the same date, the respondents have undertaken another exercise and required the officials to undergo necessary process for promotion to the said post. It is contended that various juniors have been promoted over looking his claim. Furthermore a representation dated 5.02.2007 (Annexure A/20) addressed to the competent authority remained unconsidered.



3. We have heard the Learned Counsel for the applicant, Shri C. B. sharma and perused the pleadings carefully.

4. On bestowing our thoughtful consideration to all aspects of the matter, we find no justification in the contentions raised to interfere in the process undertaken by the respondents in deleting his name from the said Panel, particularly when the validity of the said Panel had been for a period of two years, and which life expired in August 2006. Furthermore, it remained unchallenged before any Court of law. Moreover, the applicant's two successive ACRs namely for the period ending 31.3.2004 and 31.3.2005 were also adverse and had been duly communicated to him. It is not his case that said ACRs were either challenged before any competent court of law or remarks conveyed were expunged. It is also not in dispute that when his name was placed on panel dated 27.8.2004, he had not satisfied 2 years required service in the feeder cadre and his unfitness was conveyed as early as on 28.1.2005. His case was reviewed and again he was found unfit, which was also conveyed on 16.2.2006. Despite these facts, there was no improvement in his service record and performance. It is well settled law that promotion to higher post, particularly which are selection post, cannot be claimed as a matter of right merely based on seniority. Service record is one of the essential condition and such service record has to satisfy the parameters laid down under the

rules and instructions in vogue from time to time. When such are the facts, we find no justification in the applicant's contention that illegality and arbitrariness has been committed by the respondents. We may note that the order dated 22.1.2007 required him to appear in the said process once again. Meaning thereby, the aforesaid unfitness didn't stands in his chances of promotion, nor it has forbidden his promotion for all times to come. It only requires that the applicant should participate in the selection process for the said post. There is absolutely no justification for interference by this Tribunal in a judicial review at this stage.

5. Finding no merits, we dismiss the present application under Section 19(3) of the Administrative Tribunals Act, 1985 at the admission stage without issuing notice to the respondents. Ordered accordingly.


P. SHUKLA
ADMINISTRATIVE


(M. K. GUPTA)
JUDICIAL MEMBER

P.C.