

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDER SHEET

28

ORDERS OF THE TRIBUNAL

27.08.2012

OA No. 392/2009

Mr. P.N. Jatti, Counsel for applicant.
Mr. B.K. Pareek, Proxy counsel for
Mr. T.P. Sharma, Counsel for respondents.

On the request of the proxy counsel appearing on behalf of the learned counsel for the respondents, list it on 12.09.2012.

Anil Kumar
(Anil Kumar)
Member (A)

K.S. Rathore
(Justice K.S. Rathore)
Member (J)

ahq

12-09-2012

O.A. No. 392/2009

Mr. P. N. Jatti, Counsel for applicant.
Mr. T. P. Sharma, Counsel for respondents.

Heard.

O.A. is disposed of by a separate order on the separate sheets for the reasons recorded therein.

Received
Original record
B.K. Pareek
Adv.
for Mr. T.P. Sharma
Adv.

Anil Kumar
[Anil Kumar]
Member (A)

K.S. Rathore
[Justice K.S. Rathore]
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 12th day of September, 2012

ORIGINAL APPLICATION No.392/2009

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

R.N.Khurana
s/o Shri Chandi Ram,
r/o F-205 Mithila Path,
Priya Darshini Marg,
Shyam Nagar,
Jaipur

.. Applicant

(By Advocate : Shri P.N.Jatti)

Versus

1. Union of India,
through the Secretary
to the Govt. of India,
Department of Telecommunication,
Ministry of Telecommunication and
Information Technology,
Parliament Street,
Sanchar Bhawan,
New Delhi.
2. Chairman,
Telecom Commission,
20, Ashok Road,
Parliament Street,
Sanchar Bhawan,
New Delhi.

.....Respondents

(By Advocate : Shri Tej Prakash Sharma)

ORDER (ORAL)

Earlier the applicant filed OA No.490/2004 and the same was decided vide order dated 25th September, 2008. While disposing of the aforesaid OA, this Tribunal observed as under:-

"6. Accordingly, the respondents are directed to hold review DPC and to consider the case of the applicant for grant of adhoc promotion to the post of Superintending Engineer w.e.f. 27.3.92, the date from which persons junior to the applicant, as noticed vide order dated 12.8.2008, were granted promotion. Such exercise shall be undertaken by the respondents within a period of three months from the date of receipt of a copy of this order. Needless to add that if the applicant is held entitled for promotion w.e.f. 27.3.92, when persons junior to him were given adhoc promotion, the applicant shall be granted the benefit in terms of judgment rendered by this Tribunal in the earlier OA."

2. Pursuant to the directions issued by this Tribunal vide its order dated 25th September, 2008 in OA No.490/2004, review DPC was held on 5.11.2008 for considering case of the applicant for grant of adhoc promotion to the post of Superintending Engineer (C) w.e.f. 27.3.1992, the date from which junior to the applicant were granted promotion. The DPC on examination of the relevant record and confidential dossiers of the applicant did not find the applicant fit for promotion to the grade of Superintending Engineer (C) on adhoc basis w.e.f. 27.3.1992 against the vacancies of the year 1991-92.

3. Aggrieved and dis-satisfied with the order dated 10.11.2008 (Ann.A/1) passed pursuant to the direction issued by this Tribunal vide order dated 25th September, 2008 in OA No.290/2004, the applicant preferred this OA claiming following reliefs:-



- "8.1 That by a suitable writ/order or the direction the respondents be directed to produce the all relevant records before the Hon'ble CAT bench for kind perusal of the Hon'ble bench and the impugned order dated 10.11.08 be quashed and set-aside.
- 8.2 It is humbly prayed that after perusing the record the humble applicant be allowed for Adhoc promotion of S.E. on Adhoc basis with effect from 27/3/92 with all consequential benefits.
- 8.3 A reasonable cost be allowed to the applicant for filing the OA.
- 8.4 Any other relief which the Hon'ble bench deems fit."

4. The main challenge to the impugned order is on the ground that the decision reached by the review DPC held on 5.11.2008 did not contain the detail of facts on the basis of which the applicant was not found fit w.e.f. 27.3.1992 and the decision was not taken in accordance with the relevant dossiers and further challenged that the details of officers considered along with the applicant has not been given. Further the applicant has never been conveyed any adverse report through out his service career particularly when he was Executive Engineer. Further, the respondents have seriously erred in not indicating the position of the year 1991-92. Therefore, submitted that in view of OM dated 30.3.1988 of the Govt. of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, New Delhi, the applicant was quite fit for adhoc promotion to the post of Superintending Engineer w.e.f. 27.3.1992 as no adverse entry was conveyed to the applicant from the date of appointment till 25.3.1992. Thus, the DPC has not

examined the record of the applicant correctly and, therefore, he has been treated unfit arbitrarily.

5. To resolve this controversy, vide order dated 4.5.2012, this Tribunal thought it proper to direct the respondents to place the ACRs of the applicant in original for perusal of this Tribunal on the next date. Pursuant to the direction, the respondents have placed ACRs of the applicant for the year 1990-91 and 1991-92 and after perusal the ACRs, we further directed the official respondents to place before us the original proceedings drawn by the review DPC for our perusal on the next date and today same were placed before us for our perusal. We have perused the ACRs and also gone through the recommendations made by the review DPC held on 15.11.2008 for grant of adhoc promotion to the applicant on the post of Superintending Engineer (C). After perusal of the ACRs as well as the proceedings drawn by the review DPC, it reveals that ACR of the applicant for the year 1989-90 and 1990-91 were 'average'. We have also perused the service record of other persons who have been considered for adhoc promotion like S/Shri H.S.Kasotiya, R.K.S.Yadav and A.S.Gulati,. On perusal, it is evident that ACRs of Shri H.S.Kasotiya were through out 'very good'. In respect of Shri R.K.S.Yadav, out of five ACRs, four are 'outstanding' and one is 'very good' and so far as Shri A.S.Gulati is concerned, out of five ACRs, he has four 'very good' and one 'good' and these three persons were found fit for adhoc promotion by the DPC. The review DPC which was held on 5.11.2008 pursuant to direction issued by this Tribunal vide order dated 25th September, 2008 has

reconsidered the matter of the applicant and since out of five ACRs, the applicant has 'very good' grading in the ACRs for the year 1986-87, 1987-88 and 1988-89 and 'average' in the year 1989-90 and 1990-91, thus he was rightly not found fit for adhoc promotion to the post of Superintending Engineer (C).

6. In view of above, we find no illegality or error on the part of the respondents and, therefore, the impugned order dated 10.11.2008 requires no interference by this Tribunal.

7. Consequently, the OA being devoid of merit fails and the same is hereby dismissed with no order as to costs.

8. The registry is directed to return back the original record to the learned counsel appearing for the respondents.

Anil Kumar
(ANIL KUMAR)
Admv. Member

K.S. Rathore
(JUSTICE K.S. RATHORE)
Judl. Member

R/