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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::: GUWAHATI-5.

D.A. NO. 100/94
T.A. NO.

DATE OF DECISION 23-11-95

Sri K.M.Doraiswamy

(PETITIONER(S))

Dr.Y.K.Phukan with Mr.D.Das
Mr.J.Talukdar.

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India & Ors.

RESPONDENT (S)

Mr.S.Ali, Sr.C.G.S.C.

ADVOCATE FOR THE
RESPONDENT (S)

THE HON'BLE JUSTICE SHRI M.G.CHAUDHARI, VICE-CHAIRMAN
THE HON'BLE SHRI G.L.SANGLYINE, MEMBER(A)

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble VICE-CHAIRMAN

M.G.Chaudhary

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.100/94

Date of Order: This the 23rd Day of November 1995.

Sri K.M.Doraiswamy
Area Director Telecommunications, Rajgarh Road
Guwahati-781007.

By Advocate Dr.Y.K.Phukan with Mr.D.Sas and
Mrs.J.Talukdar.

-Vs-

1. Union of India(Through Chairman, Telecom Commission, Sanchar Bhawan, 20 Ashoka Road, New Delhi-110001.
2. The Chairman, Telecom Commission, Sanchar Bhawan, 20 Ashoka Road, New Delhi-110001.
3. The Chief General Manager, Telecommunications, Ulubari, Guwahati-781007.
4. The Director(ST-I), Department of Telecommunications, Telecom Directorate, Sanchar Bhawan, 20 Ashoka Road, New Delhi-110001.
5. Sri M.K.Sudarashnam, Care of Chairman, Telecom Commission, 20 Ashoka Road, New Delhi.
6. Sri A.Gopinath Dixit, Care of Chairman, Telecom Commission, 20 Ashoka Road, New Delhi.
7. Sri A.Balasubramanium, Care of Chairman, Telecom Commission, 20 Ashoka Road, New Delhi.
8. Sri Mitra Bhanu Patel, Care of Chairman, Telecom Commission. 20 Ashoka Road, New Delhi.

By Advocate Mr.S.Ali Sr.C.G.S.C.

O R D E R.

CHAUDHARI J(VC):

The applicant K.M.Doraiswamy entered the service with the department of Telecommunications on 8-4-1980 as Junior Time Scale Officer. He was posted in various places in different states and had also been posted at Harare (Zimbabwe) as T.C.I.L.(Consultant) from 4-6-1990 to 30-6-1992. The field of his work was Network Planning.

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He also earned letters of appreciation and Honoraariums for precision and efficiency in the work. With that background he was promoted to the senior time scale as Divisional Engineer Telecommunications on 19-5-1984. He was thereafter given adhoc promotion to the post of Junior Administrative Grade of ITS Group 'A' on 1-7-1992. All throughout his seniority has been placed at the Staff No.0737. At the time of presentation of the application on 23-5-1994 he was working as Area Director Telecommunications, Guwahati which is a JAG post of ITS Group 'A'.

2. A meeting of the departmental promotion Committee in the department of Telecommunications was convened between 13-18 January 1994 for selection of officers for promotion to Junior Administrative Grade of ITS in Telecom Commission against 84 vacancies for the year 1990-91. The Committee considered 172 officers and prepared a panel of 84 officers. The name of the applicant did not figure in that panel. The names of private respondents No.5-13 who are junior to the applicant in seniority however were included in the panel. By order dated 3-2-1994 issued by the respondent No.4 the 84 selected officers have been promoted to the post of Junior Administrative Grade Officers of ITS Group 'A' on regular basis with effect from 18-1-1994.

3. The applicant has therefore a grievance against his non-selection for regular promotion and about the promotion of private respondents as they were junior to him and as according to him they will gain seniority as JAG officers above those who are still working on adhoc basis including himself. He has therefore challenged the order dated 3-2-1994 and has prayed that the official respondents be directed to restore his seniority by promoting him also on regular basis and placing him above his junior officers i.e. private respondents with effect from the date they

they were promoted i.e. 18-1-1994.

4. In aid of the principal relief he has also inter alia prayed that the respondents 1-4 be directed to produce the DPC evaluation proceedings, they be further directed to give 100% weightage for achieving 100% of the targets to him, they also be directed to show whether the reporting and reviewing officers had disagreed on the point of achievement of targets by him and the respondents be also directed to correct the inconsistency in the grading done by the reviewing officers who should have graded him as 'outstanding' in view of 100% achievement of the targets by him and comments of the reporting officer on part II of the CRs pertaining to him during the 5 years considered for promotion and comments of the reviewing officer thereon

5. The official respondents have produced before us a copy of the minutes of the meeting of the DPC and the panel prepared by them. They have also produced for our perusal the service records(ACRs) of the applicant as well as private respondents.

6. The main contention of the applicant is that he being an efficient officer of the department who has always achieved 100% targets and received appreciations for outstanding performances from all concerned deserved his ranking as 'outstanding' by the DPC. He contends that the DPC did not follow guidelines set by the DOT for evaluation of the CRs for regularising the adhoc promotion and that the private respondents have been given out of turn promotion while weightage to his own performance has not been given. ^{He also submits} ~~He also submits~~ ^{varis} also that due to the loss of genuine seniority fixed by UPSC on ^{merit} ~~merit~~ his enthusiasm

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for the development of the nation will be marred depriving the nation of an efficient technocrat. This however is said by way of self estimation.

7. The respondents resist the application. They have referred to the procedure which is to be followed by the DPC according to which officers graded 'outstanding' would rank en-block senior to those who are graded 'Very Good'. They contend that the DPC accordingly had correctly prepared the panel in which UPSC graded 26 officers as 'outstanding' and the remaining 58 officers as 'Very Good' and the recommendations of the UPSC have been accepted by the appointing authority, namely, the President of India. They further contend that the award of appreciation letters and grant of honorarium is part and parcel of the duty of every Government ^{servant} to work in the best interest of the Government and it does not afford any ground to the applicant to claim better classification by the DPC which has to make an objective assessment upon overall consideration of the service record and merit of each officer. It is submitted that the DPC had carried out its assessment as per the sanctity of the relevant rules and that is not open to challenge. Thus they contend that the application is liable to be dismissed.

8. The applicant has filed a rejoinder reiterating the contentions already made and finds fault with the UPSC having made the recommendation to the appointing authority which according to him is exclusive job of the DPC. He also alleges that the DPC had not followed the specific guidelines while assigning classification to

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to the various officers and classifying 58 officers as 'Very Good.'

9. Dr. Phukan the learned counsel for the applicant reiterated the contentions advanced in the application and the rejoinder and submitted that an outstanding officer has to suffer frustration as he has been deprived of legitimate promotion and ^{for} having been placed below his juniors. He submitted that the applicant strongly believes that his evaluation in the Annual Confidential Reports was not correctly made and he has not been given due weightage for achievement of targets and that had led the DPC to rank him less than others and thus the entire selection made by the DPC is vitiated. In any event, according to the learned counsel, it stands vitiated as far as the applicant is concerned. The learned counsel submitted that the grievance of the applicant being that the proper form for recording Annual Confidential Report has not been followed and that is likely to have resulted in the service record for the relevant years not reflecting the correct position as regards his performance and that having resulted in Affecting the opinion of the DPC the evaluation made by the DPC ^{relating to} of the applicant is vitiated.

10. Mr. S. Ali, the learned Sr.C.G.S.C. submitted that the objective assessment made by the DPC is not open to challenge and even though the applicant may feel that he is an outstanding officer such an opinion is not necessarily required to be held by the DPC. He submits that the DPC has to evaluate the service records and from amongst all the officers in the zone of consideration it has to make objective assessment of each of them and empanel the suitable candidates for promotion. He submitted that there has been no irregularity in preparing the panel by

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by the DPC and the applicant has no legal right to challenge its decision.

11. It is settled position in law that the Tribunal does not function as an appellate body over the decision of the Departmental Promotion Committee. In absence of any allegation of malafides or bias against the members of the committee its decision is not open to interference. It is also well settled that the objective assessment made by the DPC cannot be interfered with nor can it be substituted by the Tribunal by its own objective assessment. Unless there is any ground to establish that the decision of the DPC has been vitiated in respect of an aggrieved officer or generally it would not be open to interference by us. How the evaluation of the officer concerned on the basis of his service record for the relevant years should be made is the solely the function of the DPC.

12. We have gone through the ACRs of the applicant for the relevant periods. In order to satisfy ourselves about the fairness of the decision of the DPC we have also gone through the ACRs of some of the officers from amongst the private respondents. We find that all those officers also had achieved 100% targets. The applicant cannot derive any particulars advantage by his repeated assertion that he has achieved 100% targets. That also rules out the grievance that the weightage for the same had not been given while assessing his performance by the reviewing authorities.

13. We have given our anxious consideration to the matter. However as we find that there is no ground on which we can hold either the decision of the DPC or the process of evaluation made by the concerned officers in

the ACRs of the applicant erroneous or contrary to law we have no jurisdiction to go behind the decision of the DPC. We have to apply the test whether the DPC could have reasonably arrived at the evaluation made by them, and we have to stop there. We cannot substitute our own evaluation for that of the committee. We are satisfied after going through the ACRs of the applicant and some of the officers from amongst the private respondents that the comparative assessment made by the DPC cannot be faulted on any legal ground save and except to say that some other persons may have rated the various officers differently or may have rated the applicant as 'outstanding'. The main relief claimed by the applicant therefore is not capable of being granted to him. We are not impressed by the contention of the applicant raised in the rejoinder that the recommendation made by the UPSC is a nullity for the simple reason that the panel was prepared by the DPC which was recommended by the UPSC to the President of India who is the appointing authority.

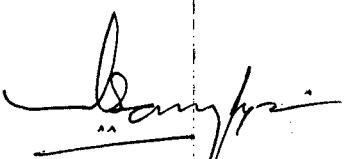
14. We are also not impressed by the contention that the factor of earning awards and honourariums was not given any weightage in the ACRs or by the DPC. We are also not impressed by the contention that proper format was not used in recording the ACRs. This view we are persuaded to take after having gone through the ACRs of the applicant and some other officers.

In the result the application is dismissed. It is made clear that this decision is confined only to the impugned list and nothing said in the order will affect future consideration of the applicant for promotion in due course. No order as to costs.

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The confidential records of the applicant and of private respondents made available to us by Mr.S.Ali, Sr.C.G.S.C. for our perusal have been returned to the counsel after perusing the same. Only the minutes of the DPC are retained and are directed to be kept in a sealed cover until ordered to be returned.


(G.L.SANGLYINE)

MEMBER(A)


(M.G.CHAUDHARI)
VICE-CHAIRMAN

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