

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA/050/00607/18
With
MA/050/00518/2018

Date of Order: 13.12.2018

C O R A M

HON'BLE MR. JAYESH V. BHAIKAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

K. Senthil Kumar, S/o Shri Krishna Murthi, residing at Flat No. 104, Jaisree Complex, Nageshwar Colony, PS- Buddha Colony, District- Patna.

..... Applicant.

- By Advocate: - Mr. J.K. Karn

-Versus-

1. The Union of India, through the Secretary, Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training, North Block, New Delhi-110001.
2. The State of Bihar through the Chief Secretary, Bihar, Patna- 800001.
3. The Principal Secretary, General Administration Department, Bihar, Patna- 800001.
4. The Under Secretary to the Government, Bihar, Patna- 800001.
5. The Under Secretary to the Government, General Administration Department, Government of Bihar- 800001.

..... Respondents.

- By Advocate: - Mr. Shekhar Singh, SC for State of Bihar

O R D E R
[ORAL]

Per Dinesh Sharma, A.M.:-The applicant has requested this Tribunal to direct the respondent authorities to consider the promotion of the applicant to Super Time Scale (Secretary Grade) w.e.f. his eligibility, i.e. 26.12.2011/date of such promotion to his immediate junior in terms of observations and findings of this Hon'ble Tribunal recorded in paragraph 9 and 10 of order dated 26.06.2018 passed in RA/050/00013/2018.

2. The respondents State of Bihar in their written statement have alleged that due to charges levelled against the applicant in criminal case lodged at the Nigrani Thana Patna as case no. 54/2010 a departmental proceeding was initiated against the applicant vide memo no. 5254 dated 27.06.2012. In view of that charges the applicant was put under suspension vide resolution No. 7432 dated 30.06.2011 of General Administration Department, Bihar, Patna. It is submitted that the concerned Departmental Promotion Committee, responsible for considering Selection Grade promotions for IAS officers, in its meeting dated 24.12.2010 decided to keep the recommendation regarding the applicant in sealed cover in the light of the above disciplinary actions taken against the applicant. Subsequently, the DPC met to consider the promotions in Super Time Scale (Secretary Level) decided to withhold the applicant's promotion because he was not granted promotion in Selection Grade. Following the order of this Tribunal in OA 541/2015 dated 16.03.2018 the applicant has been granted promotion to Selection Grade vide notification no. 4713 dated 09.04.2018. The applicant had filed a review petition against this order of the Tribunal vide RA/050/00013/2018 which was rejected by this Tribunal with the following observation in para-10: -

“Accordingly, as the respondents have been directed to consider the promotion of the applicant to Super Time Scale in due course in accordance with law, the ratio, as established in the orders of the Tribunal, will apply and hence there is no requirement to review and pass any other orders in modification of the earlier orders dated 16.03.2018.”

The respondents have requested for rejecting the application on these grounds.

3. The applicant has filed a miscellaneous application vide MA/050/00518/18 for fixing an early date for hearing the OA so that his

promotion to Super Time Scale can be considered in the next meeting of the DPC to be called in the third week of December,2018.

4. After going through the pleadings and hearing the learned counsel for the parties, it is clear that the only issue which remains to be settled in this case is whether the applicant's case should be considered for promotion to Super Time Scale w.e.f. his alleged eligibility, i.e. 26.12.2011 in the next meeting of the DPC. The question of law in this matter is very well settled in a number of cases decided by this Tribunal, Hon'ble High Court and Hon'ble Apex Court. Whenever a disciplinary proceeding is pending against any officer and the person falls within the zone of consideration, a sealed cover procedure should be followed for judging their suitability. Hence, without passing any judgment on the merits of the date of eligibility of his promotion, we direct the respondents to put his case before the next meeting of the DPC and follow the procedure applicable for deciding about the suitability for promotion as well as date of effect from which this promotion should come into effect. The decision may be kept in a sealed cover if there is any departmental proceeding pending against him. Accordingly, the OA as well as MA are disposed of.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member