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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2748/2003

New Delhi this the 4th day of August, 2004.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)
HON'BLE MR. S.K. NAIK, MEMBER (ADMNV)

Amar Pal Jayant,
S/o late Shri Phool Chand,
R/o Railway Colony, 16/G/H,
Panipat (Haryana)

-Applicant

(By Advocate Shri M.L. Sharma)

-Versus-

1. Union of India through
Chairman,
Ministry of Railways,
(Railway Board),
Rail Bhawan,
New Delhi.

2. The General Manager,
Northern Railway,
Headquarters Office,
Baroda House,
New Delhi.

3. The Civil. Rail Manager,
Northern Railway,
Estate Entry Road,
New Delhi.

-Respondents

(By Advocate Shri V.S.R. Krishna)

O R D E R (ORAL)

By Mr. Shanker Raju, Member (J):

Heard the parties.

2. Withholding of promotion to the post of Booking Supervisor has been assailed in the present application.

3. Applicant, in pursuance of a selection held on 9.12.1996, has been empanelled on being found suitable for the post of Booking Supervisor and by a letter issued on 18.9.1999 the panel was subjected to verification as to the pending disciplinary proceedings.

4. By an order dated 24.1.2000 juniors and colleagues of applicant have been promoted by placement in the provisional panel of Booking Supervisors. The case of applicant was not considered as ACRs from his earlier posting at Ferozepur were not received. As applicant contends that a minor penalty of censure awarded to him has lost its effect in January, 2000 and pendency of a minor penalty proceeding has no effect over promotion in view of RBE No.13/1993, according to which, in case a railway servant is considered for promotion as per paragraph 3.1 of the Railway Board's order there is no objection to promote him if the proceedings initiated and pending are only for imposition of a final penalty.

5. Further relying upon paragraph 3.1 of the RBE-13/1993 Sh. M.L. Sharma contends that in case of completion of disciplinary proceedings for a minor penalty the same shall not affect promotion.

6. On the other hand, respondents' counsel Sh. V.S.R. Krishna contended that on account of a punishment imposed taking effect from 1.12.2000 and also a major penalty issued on 5.6.2000 case of applicant was placed under sealed cover and on account of a minor penalty imposed w.e.f. 29.10.1998 sealed cover was not implemented.

7. On careful consideration of the rival contentions we find that in pursuance of selection of 1996 applicant whose minor punishment has lost its effect in

January, 1999 had been empanelled provisionally on the post of Booking Supervisor having been found suitable. A minor penalty chargesheet issued in 2000 would not affect promotion as per RBE 13/1993. The contention that name of applicant was placed under sealed cover ~~does~~ ^{is} not borne out from the record and rather he was provisionally empanelled but was not considered for promotion.

8. Having regard to the above, OA is partly allowed. Respondents are directed to re-consider the claim of applicant for promotion strictly in accordance with the provisions of RBE-13/1993, particularly in view of paragraphs 3.1 and 3.5 and re-consider the claim of applicant for promotion. In the event he is found fit otherwise, he shall be accorded promotion with effect from the date of promotion of his immediate junior with all consequential benefits. This re-consideration shall be done within a period of three months from the date of receipt of a copy of this order. No costs.

Naik
(S.K. Naik)
Member(A)

S. Raju
(Shanker Raju)
Member(J)

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