
(2021) 03 CAT CK 0009

In the Central Administrative Tribunal

Case No : Original Application No. 830 Of 2020

R.K. Naidu

APPELLANT

Vs

Sports Authority Of India & Others

RESPONDENT

Date of Decision : 02-03-2021

Acts Referred:

Citation : (2021) 03 CAT CK 0009

Hon'ble Judges : L. Narasimha Reddy, J; Mohd. Jamshed, Member (A)

Bench : Division Bench

Advocate : V.S.R. Krishna, Geetanjali Sharma

Final Decision : Disposed Of

Judgement

L. Narasimha Reddy, J

1. The applicant is a prominent player in Handball and is said to have participated in various international events representing India. He was appointed as Assistant Director in Sports Authority of India, i.e. 1st respondent, on 20.06.1989. Thereafter, he was promoted to the post of Deputy Director (DD), Director and finally as Regional Director (RD), in August, 2015. The next promotion is to the post of Executive Director (ED). According to the recruitment rules, the appointment to the post of ED is by promotion of a RD, with two years of standing, failing which, by deputation. The cadre strength is four.

2. The applicant states that he has functioned as RD at various places including Ahmedabad and Delhi and became eligible to be promoted to the post of ED in August, 2017. He contends that though there existed adequate number of vacancies in the year, 2017 and he became eligible, the 1st respondent has chosen to appoint Respondent Nos. 2 and 3 on contractual basis through orders dated 24.07.2018 and 18.09.2019 respectively, just to defeat his right to be promoted. It is also stated that the DPC was not held at a time when it was due and in the meanwhile, he was issued a major penalty charge memorandum on 01.02.2019. He retired from service on 20.06.2020.

3. This OA is filed challenging the appointment of Respondent Nos. 2 and 3 on contractual basis and with a prayer to direct the respondents to convene DPC/ Selection Committee for considering his case on the basis of proposal mooted in the year 2017 and to extend him, all the consequential benefits. The applicant contends that there was no basis for the respondents for not conducting the DPC at the relevant point of time or in appointing Respondent Nos. 2 and 3 on contractual basis.

4. On behalf of respondents a detailed counter affidavit is filed. It is stated that appointment of Respondent Nos. 2 and 3 was as Chief ED and Senior ED respectively and this step was to be taken on account of the pendency of proposal with the Ministry of Finance for restructuring and creation of 7 more posts of ED. It is also stated that the DPC was conducted on 20.12.2019 and in view of the pendency of the disciplinary proceedings against the applicant, sealed cover procedure was adopted in his case.

5. We heard Mr. V. S. R. Krishna, learned counsel for the applicant and Ms. Geetanjali Sharma, learned counsel for the respondents in detail.

6. The service particulars of the applicant are not in dispute. He joined the service of the 1st respondent in the year, 1989 and rose to the level of RD in August, 2015. It is also a matter of record that the recruitment rules for the post of ED provided for promotion of RD with two years of service. The grievance of the applicant is twofold, in this OA. The first is about the appointment of respondent Nos. 2 and 3 and the second is about the denial of promotion to him.

7. So far as the first aspect is concerned, it is no doubt true that under the recruitment rules, the appointment to the post of ED is either by promotion or by way of deputation and there is no provision for contractual appointment. A perusal of the orders of appointment of Respondents Nos. 2 and 3 discloses that they were to the post of Chief ED and Senior ED, respectively. In other words they were not appointed against any cadre post of ED. Therefore, the applicant cannot be said to have suffered any detriment on account of appointment of respondent Nos. 2 and 3 on contractual basis. It was mostly a step in view of the administrative exigencies.

8. Coming to the plea as regards denial of promotion to the applicant, though he contends that vacancies arose in the year, 2017, the respondents have categorically stated that it arose only in the year, 2020. At the most, the applicant may have acquired eligibility to be promoted on completion of two years of service as RD. That, however, does not confer any right upon him to be promoted. The DPC was convened only on 20.12.2019 and by that time a major penalty charge sheet was issued to the applicant on 01.02.2019. As provided under the law, the sealed cover procedure was adopted in the case of the applicant. Two months thereafter, he retired on attaining the age of superannuation.

9. The applicant can get the benefit of notional promotion on the basis of the

consideration by the DPC in the year, 2019, if only, the disciplinary proceedings end up in exoneration of the charges and the DPC finding him otherwise fit for promotion. The sequence of events would be that in case the applicant comes out clean in the disciplinary proceedings, the sealed cover needs to be opened and if in the assessment of the DPC about the applicant is positive enough, he needs to be extended the benefit, notionally, from the date on which his immediate junior was promoted to that post. Therefore, the applicant has to await the outcome of the disciplinary proceedings.

10. We, therefore, dispose of the OA directing the 1st respondent that in case the applicant is exonerated of the charges in the pending disciplinary proceedings, it shall open the sealed cover and depending upon the recommendations of the DPC contained therein, further steps shall be taken. There shall be no order as to costs.