

Shiv Kumar Sharma And Anr. vs Union Of India (Uoi) And Ors. on 21 January, 1997

Equivalent citations: JT1998(9)SC326, (1997)11SCC112

Bench: A.M. Ahmadi, S.P. Bharucha

ORDER

1. The appellant S.K. Sharma during the years 1980-81, 1981-82 and 1982-83 was shown as "Good" in the ACRs of those years, although there was no formal categorisation. In the ACR of 1983-84 he was described as "Average" and the DIG also categorised him as an officer of average calibre. In that particular year, he was holding a dual charge, being Joint Superintendent of Police as well as holding charge of part of the establishment work at the Intelligence Headquarters. He had been promoted as Joint Superintendent of Police on 24-11-1982.

2. H.N. Srivastava who has been impleaded as a party was described as an officer with "excellent performance" in the year 1980-81. For the year 1981-82 he was categorised as "Good" by the Reporting Officer while the Reviewing Officer had mentioned his conduct to be "excellent" without making any categorisation. He was promoted as Joint Superintendent of Police on 11-7-1983. For the years 1982-83 he was described as "outstanding" whereas in the year 1983-84 the remarks were that his performance was good. The remarks for the year 1984-85 were "very good performance". However, the Director General had merely recorded that he was a useful officer but had made no categorisation.

3. The learned Counsel for both these officers invited our attention to a decision of the Full Bench of the Central Administrative Tribunal dated 29-10-1991. By that decision the Tribunal evolved a formula of categorisation. That formula was as under:

The only reasonable and just suggestion that in our opinion can be made to meet the ends of justice in the circumstances of the case is that for the period during which the applicants shouldered the higher responsibilities for the higher Class I posts of ASW/SW, their gradation as SA should be treated as one level higher than the grading awarded to them as ASW as per the ACRs for that period. That is, if the ACR as ASW reflects "good" it should be taken as "very good", and if "very good", then it should be taken as "outstanding". In this manner they are placed on equal footing for the purpose of assessment of comparative merits." See S.S. Sambhus v. Union of India (1992) 19 ATC 571 (Hyd)(FB).

4. This formula worked out by the Full Bench of the Central Administrative Tribunal came up for scrutiny by this Court in Prem Shankar Gupta v. Union of India SLPs (C) Nos. 5259-60 of 1991 with SLP (C) No. 14447 of 1992 and allied matters. This Court while disposing of the group of petitions observed as under:

We are satisfied that the formula evolved by the Full Bench of the Central Administrative Tribunal is the proper and just one having regard to the facts and circum stances of the case and the practicalities of the situation.

5. With these words, this Court refused to interfere with the formula worked out by the Full Bench of the Central Administrative Tribunal.

6. Both the learned Counsel for the officers S.K. Sharma and H.N. Srivastava contend that if this formula was adopted even on the basis of the categorisation made by the UPSC they would have been better placed insofar as assessment of their work is concerned and they would have stood the chance of being selected for entry into the IPS cadre at an earlier date when others with lesser record get the benefit. We do not propose to express any opinion on the merit of the matter, but we see no difficulty in accepting the submission of the counsel that the UPSC should be directed to reconsider their cases in the light of the judgment of the Full Bench of the Central Administrative Tribunal approved by this Court so that a proper assessment can be made by the UPSC. It is only on the limited ground that we think that the matter deserves a second look by the UPSC. We make it clear that no other point was urged by counsel for both the officers nor does any other point survive for consideration. This is the only limited point urged and examined by us and the assessment of the UPSC after remand should set the matter at rest.

7. In the result, we allow this appeal by S.K. Sharma as also the intervention by H.N. Srivastava and direct that the UPSC will reconsider their case in the light of the judgment of the Full Bench of the Central Administrative Tribunal approved by this Court in the aforementioned decision. There will be no order as to costs.