

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI. 3

O.A. 1878/88

Date of decision 22.11.88.

Shri D.R. NimPetitioner

Vs.

Union of India & OthersRespondents

For the applicantIn person.

For the respondentsNone.

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. P. SRINIVASAN, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? Yes
2. To be referred to the Reporter or not? No

JUDGMENT

(The judgment of the Bench delivered by Hon'ble Mr. P. Srinivasan, Administrative Member)

This application has come up before us for admission today. In order to understand the issue raised in this application in perspective, it is necessary to go back to an earlier application filed by the same applicant and registered as OA 247 of 1986. In that application the applicant prayed that he be considered for the post of Principal of the Government Senior Secondary School, with retrospective effect because his juniors were so considered

P. Srinivasan

and promoted from 1976. After hearing both sides a Bench of this Tribunal delivered a judgment on 1.7.1988, the operative part of which reads as follows:

"Accordingly, we allow the application to the extent of directing that a review DPC for adhoc promotion as Principal, consisting of the Chief Secretary, Secretary Education, Labour Commissioner, Finance Secretary and an officer of appropriate seniority belonging to a Scheduled Caste should be constituted and the case of the applicant should be reviewed for adhoc promotion as Principal/Vice Principal as in 1976 and 1977 without taking into consideration the adverse entry which was expunged in 1978. In case the applicant is found fit for promotion as Principal/Vice Principal in 1976 or 1977, he should be promoted with effect from the date his immediate Scheduled Caste junior officer was so promoted in 1976 or 1977 as the case may be, with all consequential benefits of pay (including arrears of pay), seniority etc."

Thereafter the applicant filed a petition that the respondents should be hauled up for contempt of this Tribunal as they had not implemented the aforesaid judgment. The Contempt of Court petition came up for hearing before this Tribunal on 26.5.1988. In the meanwhile, the respondents passed an order dated 26.2.1988 promoting the applicant to the post of Vice Principal on adhoc basis with effect from 6.10.1977 i.e. the date from which his immediate junior was given proforma promotion to that post. When the Contempt of Court petition came up for hearing, the question arose as to whether the applicant was rightly denied promotion to the post of Principal since he had been promoted only to the post of Vice Principal. In its order dated 26.5.1988, a Bench of this Tribunal, dismissing the CCP observed:

"As regards applicant's promotion as Principal, it has been brought to our notice that the DPC considered him but did not find him fit as Principal. The relevant papers have been shown to us."

P. S. V.

It may also be mentioned here that the order dated 26.2.88 promoting the applicant to the post of Vice Principal to which we have referred above was produced before the Bench when it passed the aforesaid order.

2. In this application as originally filed, the applicant wanted the respondents to answer a number of questions, instead of specifying his prayer. Subsequently, he has amended the application to include the following two prayers:

"1. That the applicant may kindly be promoted to the post of the Principal w.e.f. 7.9.76 since than his junior Shri M.P. Singh has been promoted with all consequential benefits, and
2. That if this Hon'ble Tribunal thinks the review of the DPC proceedings essential, the whole DPC proceedings related S/Castes candidates may kindly be ordered to be reviewed either by the UPSC or by the Ministry of Home Affairs, Government of India, Department of Administrative Reforms."

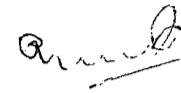
3. It will be noticed that the prayer of the applicant is that he should be given promotion ^{retrospectively} to the post of Principal from 1976. As we have already stated, the same question came up before this Tribunal in the Contempt of Court proceedings and this Tribunal noticed that the case of the applicant had been duly considered and he had not been found fit for promotion. This Tribunal also saw the relevant proceedings in which the applicant's case was considered and, therefore, dismissed the petition for contempt. Thus the matter stands concluded by a decision of this Tribunal. We can not sit in judgment over that as if we were an appellate court. This being so, we are of the opinion that this application does not deserve to be admitted and adjudicated upon.

P. J. *[Signature]*

4. In view of the above, we reject this application at the stage of admission itself. The parties are left to bear their own costs.


(P. SRINIVASAN)

MEMBER (AM)


(P.K. KARTHA)

VICE CHAIRMAN