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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO.681/88

DATE OF DECISION: 25.05.1992.

VIRENDRA VIJAY

...APPLICANT

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

CORAM:-

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

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

1. Whether Reporters of Local Papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*

FOR THE APPLICANT

SHRI K.N.R. PILLAI, COUNSEL.

FOR THE RESPONDENTS

SHRI P.H. RAMCHANDANI, SENIOR COUNSEL.

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE MR. P.K. KARTHA, VICE-CHAIRMAN(J))

We have heard the learned counsel for both parties. The relief sought for by the applicant in this Original Application, filed under Section 19 of the Administrative Tribunals Act, 1985 is that the memorandum dated 29.3.1988 be quashed and to declare the applicant appointed to the post in the Senior Administrative Grade of the Indian Broadcasting (Engineers) Service on and with effect from 1.2.1987 with all consequential benefits and reliefs.

2. The admitted factual position is that the applicant was recommended by the Union Public Service Commission (UPSC) for promotion to the post of Senior Administrative Grade (Level II) of the Indian Broadcasting (Engineers) Service in the meeting held on 5.8.1986. The respondents forwarded recommendations of the UPSC to the Appointments Committee of the Cabinet (ACC) which is the final authority for appoint-

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ments of officers in the said category, did not, however, accept the recommendations of the UPSC in so far as it related to the applicant and one other officer.

3. The learned counsel for the respondents submits that DPCs were held in 1987, 1990 and 1992 which considered the suitability of persons for similar promotions but the UPSC did not recommend the applicant for promotion.

4. The learned counsel for the applicant has drawn our attention to the office memorandum, issued by the Ministry of Home Affairs on 20.08.1949, according to which where the appointing authority considered the circumstances so exceptional as to justify a departure from the recommendations of the UPSC, the reasons for that opinion should be stated and the Commission given an opportunity, if they so desire, for further justifying their recommendations before a final decision is taken.


5. After hearing both sides, we are of the view that in the case for selection to a post which requires the approval of the ACC, it is for the ACC to take the final decision on the recommendations made by the UPSC. In case the ACC does not accept the recommendations made by the DPC, the same will have to be intimated to the UPSC and the UPSC may include this in its report, to be submitted to Parliament.

6. Incidentally, we have also perused the confidential reports of the applicant of the relevant years. In the facts and circumstances of the case, we are of the opinion that the applicant is not entitled to the reliefs sought in the present Application. He has only a right to be considered for promotion which was done by the respondents.

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7. In this view of the matter, we see no merit in the present Application and the same is dismissed. There will be no order as to costs.

  
(I.K. RASGOTRA)  
MEMBER(A)

  
(P.K. KARTHA)  
VICE-CHAIRMAN

May 25, 1992.

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