

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGN. No. OA 336/86

Date of decision: 3.4.1992

Shri I.N.Vohra Applicant

VERSUS.

Union of India & Ors. Respondents

CORAM: THE HON'BLE MR.S.P.MUKERJI, VICE CHAIRMAN(A)
THE HON'BLE MR.T.S.OBEROI, MEMBER(J)

For the Applicant Sh.S.C.Gupta, Sr.Counsel
with Shri L.R.Goel, Counsel &
Shri M.K.Gupta, Counsel.

For the Respondents Shri N.S.Mehta, Counsel.

1. Whether reporters of local papers may be allowed
to see the Judgement? Yes

2. To be referred to the Reporters or not? No

JUDGEMENT(ORAL)

(BY HON'BLE MR.S.P.MUKERJI, VICE CHAIRMAN(J))

heard
We have/ Shri S.C.Gupta, learned counsel for the
applicant and Shri N.S.Mehta, learned counsel for the
respondents on this application.

2. The compass of the facts of the case lies
within narrow limits. The applicant was an aspirant
for promotion to the I.P.S in Manipur Cadre. When
he became eligible he was considered for inclusion
in the 1976 Select List by the Selection Committee
which met on 26.9.1976. Admittedly because of some
uncommunicated adverse remarks, which were taken into
account by the same committee his name was not included
in the Select List. By the same circumstances his
name was not included in the following Select List

by the Selection Committee which met on 8.12.1977.

The adverse remarks were communicated to the applicant on 27.1.1977 against which he represented and the adverse remarks were expunged on 22.2.1978. The Selection Committee which met in 1980 did not include his name in the Select List as on the basis of the gradation given to him, he did not come within the zone of selection. It was only when the Selection Committee met on 6.3.1982 that the applicant's name was included in the Select List and he was promoted to the I.P.S Cadre in December, 1983.

3. The short point which falls for our consideration is whether because of uncommunicated adverse remarks which seem to have played a part in the process of the applicant's consideration for promotion to the I.P.S in 1976 and 1977, his case should be considered by the Review Committee or not. The learned counsel for the respondents, Shri N.S.Mehta argued that since the applicant's case was considered by the Selection Committee in 1980 even after the adverse remarks had been expunged and still he was not included in the Select List, it will be a ritualistic formality if the applicant's case is considered by a Review Committee, because of his ~~not~~ being found fit for promotion to the I.P.S. in the earlier years does not arise. We cannot persuade ourselves to accept the logic of Shri Mehta's contention. Selection in every year is unique and distinct from selection ~~from~~ any other year earlier or later. Each year's selection is governed by the number of vacancies available, the officers with whom the applicant has to compete and the applicant's own performance upto that year and not later. It is possible that the applicant's performance

have
during 1977 to 1980 might ~~be~~ deteriorated, it
is possible that the officers with whom he
had competed in 1976, 1977 ~~are~~ ^{were} not so meritorious
as those with whom he had competed and failed
in 1980, it is possible that the number of
vacancies in 1976 and 1977 was ^{large} ~~large~~ enough to bring
him within the zone of selection. In the circumstances,
we feel that by depriving the applicant of his
case being reviewed in the peculiar circumstances
of 1976 and 1977 when uncommunicated ^{and later expunged}
adverse remarks
were taken into account by the Selection Committee,
the applicant would not ~~be~~ ^{have been} given a fair deal.

4. The learned counsel for the applicant was
fair enough to agree that the applicant would be
satisfied if his case is directed to be reviewed
by a Review Selection Committee for the years 1976
and 1977. We find this prayer to be absolutely
unexceptionable.

5. In the circumstances, we allow this application
to the extent of a direction to the respondents
to get the applicant's case for promotion to the
Manipur Cadre of I.P.S reviewed by the Review Selection
Committee as on 26.9.76 and 8.12.77 with the
direction to the Review ^{Committee} ~~Division~~ to consider the
applicant's C.Rs of the relevant years and grade
the applicant in the Select List of 1976 and 1977
based on the same. The respondents are directed
to ensure that the adverse remarks which have ~~not~~
been expunged are either completely removed from
the CR dossiers or expunged in such a manner as
to be not available to the members of the Selection
Committee. If the applicant falls within the zone
of selection in either of the Select Lists, he should

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(12)

be given notional promotion to the I.P.S. with effect from the date the person immediately below him in that Select List is appointed to the I.P.S. All consequential benefits of seniority i.e., the year of allotment should also be given to him on that basis.

6. We also direct that copies of this order be sent to the respondents and also to the applicant directly by the registry as requested for by the learned counsel for both the parties.

There will be no order as to costs.

Agreed
(T.S.OBEROI)
MEMBER(J)

S.P.M. / 3.4.92
(S.P.MUKERJI)
VICE CHAIRMAN(A)