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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

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

For the Respondents

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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

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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 <sup>in which his representation was pending</sup> 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 <sup>for 1976 or 1977</sup> by a Review Committee, because <sup>the question</sup> 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 <sup>in</sup> ~~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 the applicant's own performance upto that year and not later. It is possible that the applicant's performance

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during 1977 to 1980 might <sup>have</sup> ~~be~~ deteriorated, it is possible that the officers with whom he had competed in 1976, 1977 <sup>were</sup> ~~are~~ not so meritorious as those with whom he had competed and failed in 1980, it is possible that the number of vacancies in 1976 <sup>and</sup> 1977 was <sup>large</sup> 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 <sup>and later expunged</sup> adverse remarks were taken into account by the Selection Committee, the applicant would not <sup>have been</sup> ~~be~~ 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 <sup>Committee</sup> ~~Committee~~ 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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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.

*T.S. Oberoi*  
( T.S. OBEROI )  
MEMBER (J)

*S.P. Mukerji* / 3.4.92  
( S.P. MUKERJI )  
VICE CHAIRMAN (A)