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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

REGN NO. O.A. 1068/87.

DATE OF DECISION: 8.12.1992.

M.P. Aggarwal.

..Petitioner.

Versus

Chief Election Commissioner & Ors.

..Respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.  
THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A).

For the petitioner.

In person.

For the respondents.

Shri A.K. Behra, proxy for  
Shri P.H. Ramchandani,  
Sr. Counsel.

Judgement(Oral)

(By Hon'ble Mr. Justice V.S. Malimath, Chairman)

The petitioner, Shri M.P. Aggarwal, started his career as a Lower Division Clerk in the office of the Election Commission of India. He was promoted as an Assistant on 1.12.1967. The recruitment rules for the post of Section Officers were amended in the year 1984 w.e.f. 22.12.1984. The post of Section Officer is a selection post to be filled up by promotion from the cadre of Research Assistant with 3 years' regular service in the grade and assistant with 8 regular years/ service in the grade. The eligibility list for consideration by the D.P.C. is required to be prepared with reference to the date of completion by the officers of the prescribed qualifying service in the respective grade/post. The clear effect of this provision is that an assistant becomes eligible for being included in the eligibility list on completion of 8 years service as an assistant whereas research assistant becomes eligible for inclusion in the eligibility list on completion of three years service.

The names have to be arranged in the eligibility list on the basis of the dates on which the assistants and research assistants became qualified for inclusion in the eligibility list. An eligibility list was prepared consisting of the eligible assistant and eligible research assistant and placed before the D.P.C. On the basis of the assessment made by the D.P.C., promotions were made to the cadre of Section Officers. In pursuance of the selection made in the year 1986, five persons were promoted, namely, Sarvashri P.G. Swamy, J.K. Sibbu, K.R. Prasad, Thomas Mathew and A.K. Chakravarthy.

2. The principal grievance of the petitioner which was pressed during the arguments, who appeared and argued his case in person, is about the promotion given to Shri K.R. Prasad. It is his case that he had a preferential claim for promotion to Shri Prasad on the ground that both of them having been given the same grade by the D.P.C., the petitioner being a person entitled to be placed higher in ranking in the eligibility list than Shri Prasad, he was entitled to have his promotion in preference to him.

3. It was contended by the petitioner that he completed his 8 years of regular service on 1.12.1975 and that Respondent No. 3 Shri Prasad completed his 3 years of regular service on 5.7.1976. As the peti-

tioner became eligible earlier than Respondent No.3, it is his case that he was entitled to be preferred for promotion to Respondent No.3. If nothing more has to be said about the situation, the petitioner would have made out a case for interference. Shri Thomas Mathew has been promoted along with Shri Prasad. The petitioner has no grievance to make about the promotion given to Shri Thomas Mathew. The entire pleading of the petitioner shows that he accepts the seniority of Shri Thomas and the promotion given to him. Neither the seniority nor promotion given to Shri Mathew has been challenged by the petitioner. He has also not impleaded him as a party. Hence, the question of examining the validity of promotion of Mathew does not arise in this case. So far as Shri Thomas is concerned, the eligibility list produced by the petitioner shows that he got inducted by direct recruitment as Assistant w.e.f. 1.3.1971. He, therefore completed his 8 years of regular service on 1.3.1979. Hence, it is clear that Shri Thomas became qualified for being included in the eligibility list on 1.3.1979. As Shri K.R. Prasad, Respondent No. 3 became eligible on 5.3.1976 about which date there is no controversy,


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it is clear that the placing of Shri Thomas Mathew below Shri K.R. Prasad cannot be faulted. If the petitioner admits that he is junior to Shri Thomas in the cadre of Assistants, it is obvious that he is to be placed below Shri Thomas in the eligibility list. That is precisely what has been done in this case. The relative seniority of the assistants who have come from two different sources by promotion and direct recruitment not having been challenged by the petitioner, the relative positions in the eligibility list have to be reflected on the basis of their ranking they have secured in the seniority list of Assistants. It is on that basis that the names of Sarvashri Thomas Mathew, A.K. Chakravarty, Sharan Paul Singh, S.K. Kaura and the petitioner have been arranged in the eligibility list. As Shri Mathew is the seniormost among those persons and his place stood fixed below Shri K.R. Prasad, it is obvious that the names of the others including the petitioner automatically stand placed below Shri Thomas. Hence, the petitioner cannot make any grievance about the promotion of Shri K.R. Prasad, he not having challenged the promotion given to those who are placed between Shri Prasad and the petitioner such as Thomas Mathew. Hence, no relief is possible to be granted to the petitioner.

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4. For the reasons stated above, this petition fails and is accordingly dismissed. No costs.

5. Having regard to the fact that the petitioner has rendered long number of years of service, we shall appreciate if attempt is made to accommodate him and others senior to him in the promotional post as early as possible.

  
(I.K. RASGOTRA)  
MEMBER(A)

  
(V.S. MALIMATH)  
CHAIRMAN

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