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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGN.NO. G.A. 1082/87.

DATE OF DECISION: 11.1.1993

I.K. Gajbhiye.

... Petitioner.

Versus

Union of India & Ors.

... Respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. S.R. ADIGE, MEMBER(A).

For the Petitioner.

... None.

For the Respondents.

... Shri M.L. Verma,
Counsel.

JUDGEMENT (ORAL)

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

None appears for the petitioner. Shri M.L. Verma, Counsel, is present on behalf of the respondents. As this is a very old matter, we consider it proper to peruse the records, hear the learned counsel for the respondents and dispose of the case on merits.

2. The petitioner's case is that he is a member of the Scheduled Caste and his case for promotion to the cadre of Head Clerks was not considered when his juniors (Respondents 4 and 5) were considered and promoted some time in the year 1977. The petitioner says that it is possibly because of the certain cases pending against him his case was not considered. He states that under these circumstances, the sealed cover procedure should have been followed by the respondents. There were criminal proceedings initiated against the petitioner one after the other and the petitioner got absolved from the same finally when the High Court of Madhya Pradesh passed an order in his favour in M.P. No.2559 of 1983 on 2.8.1985 quashing the charge-sheets and restraining the authorities from holding any departmental inquiry against the petitioner mentioned in the two charge-sheets. The

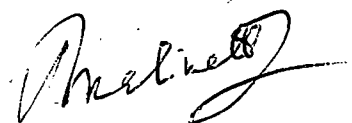
petitioner was ultimately promoted some time in the year 1986 as Head Clerk and further as Works Assistant. It is in this background that the petitioner approached this Tribunal for relief complaining about the non-consideration of his case for promotion as Head Clerk when his juniors (Respondents 4 and 5) were promoted in the year 1977. The respondents did not say in their reply that the case of the petitioner was considered along with Respondents 4 and 5 and that he was not accorded promotion. There is only a general statement taken in the reply that if an official is found unsuitable for promotion, the question of following the sealed cover procedure does not arise. But there is no statement in the reply that the petitioner's case was considered when Respondents 4 and 5 were promoted and that he was found unsuitable for promotion. If that was the fact, they would have certainly said so in the reply affidavit. It is nowhere stated in the reply that the petitioner's case was considered on the dates when his juniors Respondents 4 and 5 were considered. The assertion of the petitioner is that his case was not considered in the year 1977 and that, therefore, we must proceed on the basis that his case was not considered when his juniors, Respondents 4 and 5, were considered for the reasons that criminal proceedings were pending against the petitioner. Though that may be good justification at that point of time, it was the duty of the respondents to consider his case when the cloud around him was cleared. This not having been done, the petitioner is entitled to grant of relief. Be that as it may, the petitioner should have ^{sought} relief well in time. In the meanwhile, the petitioner has retired from service. Having regard to all the circumstances, we consider just and proper to grant the following relief.

2. This petition is partly allowed. The respondents are directed to grant deemed promotion to the cadre of Head Clerks as on the date on which Respondents 4 and 5 were considered and to consider his further promotion to the next higher post as on the date on which his juniors were promoted. On the basis of those

✓ deemed promotions, his pay shall be worked out till the date of

retirement. The respondents shall also recalculate all the retirement benefits including pension and grant him the benefit of arrears to which he is entitled to had he been accorded promotion in accordance with law as on the dates he became due. The respondents shall pay the arrears within a period of four months from the date of receipt of a copy of this judgement. No costs.


(S.R. ADIGE)
MEMBER(A)


(V.S. MALIMATH)
CHAIRMAN

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