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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (T.A.) No. 360 of 1986

Syed Hussain Ansari Plaintiff-Applicant.

Versus

Union of India & others Defendant-Respondents.

Hon'ble Ajay Johri, A.M.
Hon'ble G.S. Sharma, J.M.

(Delivered by Hon. Ajay Johri, A.M.)

1. This suit has been received on transfer from the court of Munsif Haveli, Bareilly under Section 29 of the Administrative Tribunals Act, XIII of 1985.

2. The plaintiff's case :- He was appointed as a Laskar in 1963. He was promoted as Laskar Tindal in 1965. He had the requisite qualifications for promotion to Tindal Gr.I. He was put on the panel of selected candidates along with three others and his name was at the top. The promotion was given to the fourth man (Defendant no.4). He represented against the same but no reply was given by the administration. He has, therefore, prayed that he should be promoted in accordance with his seniority.

3. The defendants' case is that the plaintiff was not the senior-most in the panel. According to them the Selection Board had framed the panel on the basis of seniority-cum-suitability instead of revised policy framed in 1980 which laid down selection on basis of seniority subject to rejection of unfit persons. Accordingly a Second Board was formed and it recommended defendant no.4's name. Defendant no.4 was senior because he was appointed on 23.8.1963 while the plaintiff was appointed on 12.9.1963. Four persons were considered for promotion. Their position was :-

		<u>Date of appointment as (L)</u>	<u>Date of appointment as L(T).</u>
1.	R.N. Prasad	23.8.63	22.6.65
2.	Nanhey Baboo	23.8.63	1.3.65
3.	Sayed Hussain	12.9.63	1.3.65
4.	G.L. Sharma	28.11.63	1.3.65

The plaintiff was explained the position in an interview that he had sought on 25.1.1984.

4. In his replication the plaintiff has said that since R.N. Prasad was promoted as Laskar (T) on 22.6.1965 and he himself was promoted on 1.3.1965 he should be senior to Sl.No.1, R.N. Prasad. Defendant no.4 was also taken up and his record was not satisfactory so on that account also he was not fit for promotion.

4. We have heard the learned counsel for the parties. It was contended before us that the petitioner may be considered for promotion on his turn and the learned counsel for the defendants did not oppose this request of the learned counsel for the plaintiff. According to him the plaintiff will, without any doubt, be considered for his next promotion on his turn on the basis of his seniority.

5. The plea taken by the plaintiff that since he was promoted on 1.3.1965 as Laskar (T) so he should be considered for selection grade cannot be accepted on its words. Nothing has been brought to our notice to say that defendant no.4 got superceded by the plaintiff. No papers have been produced to say that defendant no.4 had an unsatisfactory record and was, therefore, not eligible for being considered for the post of Selection Grade Laskar (T). Defendant no.4 on the basis of his date of appointment as Laskar was senior to the plaintiff. If three persons got promoted on the same day their inter se seniority has to be determined on the basis of the length of their service in the lower grade. We do not thus see any violation of the rules for determining seniority.

6. Promotion is a matter of administrative discretion and defendants 1 to 3 will be well within their rights to decide whether the plaintiff is suitable for the post or not. Because a Government servant ~~has not been considered for promotion he cannot complain~~

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servant has not been considered for promotion he cannot complain that any right of his has been infringed but if promotion is denied on certain extraneous considerations or wrong seniority etc. the bad order can be demolished. We do not find any such ingredients here.

7. The learned counsel for defendants 1 to 3 has already submitted that the plaintiff will be considered for the next promotion on the basis of his seniority and this is what the learned counsel for the plaintiff also pleaded before us. We have nothing to comment on this. With this the plaintiff's prayer gets met automatically and nothing is left to adjudicate.

8. The application (Suit No. 210 of 1984), therefore, stands disposed of accordingly. We make no order as to costs.

S. Bhargava
MEMBER (J).

मुख्यमंत्री
MEMBER (A).

Dated: April 20, 1988.

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