

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

T.A. No.1250/86

in

(D.S. No.926/83)

Abrar Ahmed Khan

.....

Applicant

Vs.

Union of India

.....

Respondents

Hon. Mr. Justice U.C. Srivastva, V.C.

Hon. Mr. A. B. Gorthi, A.M.

(By Hon. Mr. A. B. Gorthi, A.M.)

This application which was originally filed as a plaint in the Court of Munsif, Varanasi, was transferred to this Tribunal under section 29 of the Administrative Tribunals Act, 1985 and registered before us as T.A. No.1250/86. The plaintiff challenged the promotion of Shri S.L. Mishra and Shri C.M. Mishra, defendant No. 2 & 3 respectively and prayed for a declaration that he be promoted to the post of office Superintendent Grade II on the basis of his past seniority.

2. The plaintiff who joined the D.L.W. as a clerk was shown in the seniority list of Clerks dated 26-3-76 at Sr. No.91 whereas the defendant No.1 was at Sr.No.116 and defendant No.2 was not even shown in the said seniority list. The plaintiff was initially given adhoc promotion on 10-5-72 to the post of Senior Clerk by virtue of his seniority, which was regularised by a selection held on 2-5-1976 for 90% vacancies of senior clerks. Subsequently in the list of seniority that was published on 14-5-76 the plaintiff was shown at Sr.No.27 whereas the names of S.L. Mishra and C.M. Shra were not in the list. Another selection of 10% clerks was made on 11-6-76 wherein the defendants No.2 & 3 were promoted as Senior Clerks against 10% promotees'



quota. In the seniority list of Senior Clerks published on 29-6-77, the plaintiff's name was at Sr.No.101 whereas the name of S.L. Mishra was at 94. The Seniority list was revised in 1980 incorporating the name of C.M. Mishra at Srl. No.97. In the post of Head Clerk to which he was promoted on 31-4-81, he was again shown as junior to defendants No.2 & 3. Subsequently, in 1982 there was a selection for Office Superintendent grade II in the scale of Rs.550-750 but the plaintiff was not considered. The plaintiff's complaint is that in the seniority list, based on which selection was made, he was wrongly shown as junior to defendant No.2 & 3. He accordingly challenged the validity of the selection made. He has also alleged that the selection was not made fairly because grace marks were given to certain candidates who failed in the written test and this was done with a view to include them in the panel.

3. We have heard the learned counsel for the parties and perused the records. The learned counsel for the applicant contended that the selection procedure was vitiated because grace marks were given to those who were not entitled for the same and also that the marking of the answer books was not done correctly. The respondents refuted the allegation made by the plaintiff and stated that the seniority of the plaintiff vis-a-vis defendants 2 & 3 was correctly fixed and also that there was nothing irregular in the process of selection for the post of Office Superintendent Grade II held in 1982. The learned Counsel for the respondents contended that the selection having been held properly, it cannot be reopened for scrutiny by the Tribunal, merely because of an allegation that it was improperly conducted.

4. In the case of Union of India Vs. M.L. Kapoor A.I.R. 1974 S.C. 87 it was observed as follows :-

"The process of selection could hardly be spoken of as akin to the process of litigation. Where two or more parties, who prefer claims to the same subject matter, have to be informed of each other's cases and issues on points in dispute are



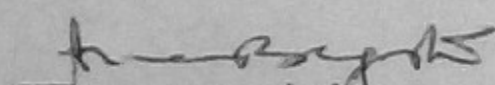
framed and then decided. Even if such a process of selection by assessment of merits could conceivably be viewed as a whole series of disputes as to comparative claims, it is quite impracticable to hear each candidate as against all the others after giving each the results of assessments of merits of all the others with access to the materials on these are based. Candidates are not expected to sit in judgment over evaluations of their own merits and of others. "

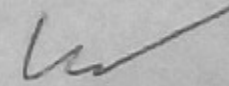
5. We may further place reliance on the Judgment in the case of Dalpat Apasaheb Solanki Vs. B.S. Mahajan A.I.R. 1990 S.C. 434, wherein the Hon'ble Supreme Court observed :-

"It is not the function of the Court to hear appeals over the decisions of the Selection Committees and scrutinise the relative merits of the candidates. The decision of the Selection Committee can be interfered with only on limited grounds, such as illegality or patent material irregularity in the constitution of the committee or its procedure vitiating the selection or proved malafides affecting the selection."

6. In the instant case nothing substantial has been brought to our notice which would compel us to interfere with the merits of the selection held. On the basis of the bald contention of the plaintiff that there were certain irregularities in the process of selection of the candidates, we cannot launch an inquisition into the selection process. In the result we find no merit in the plaint and the same is dismissed without any order as to cost.

7. As regards the seniority of the plaintiff which allegedly was improperly fixed starting from 1977, we would not like to reopen the issue and unsettle a settled position, more so when there are no justifiable grounds. However, in view of the fact that plaintiff has since been promoted to the Office superintendent Grade II it is for the defendant No.1 to examine the question of proper fixation of the seniority of the plaintiff which may be done by him.

  
Member (A)

  
Vice-Chairman

13th May, 1992, Allahabad.

(tgk)