

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration T.A. No. 771 of 1987
(W.P. No. 2117 of 1981)

Sri Jai Pal Singh Mauriya Applicant/
Petitioner.

Versus

Union of India
and others Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. K. Obayya, Member (A)

(By Hon. Mr. Justice U.C. Srivastava VC)

This is a transferred case under Section 29 of the Administrative Tribunals Act, 1985. The applicant filed a writ petition before the High Court of Judicature at Allahabad praying that a writ of mandamus be issued directing the respondent no. 1 to promote the applicant in preference to the respondent Nos. 2 to 5 or to promote him to the equivalent post on the basis of parity and equal treatment before law. The case of the applicant is that the respondent no. 1 has intentionally and with malafide intentions delayed the confirmation of the applicant w.e.f. 22.2.1956 and has thus respondent nos. 2 to 5 who were junior to the applicant and were not qualified and the claim of the applicant for promotion in D.P.C. since 1956 upto the present date and was never put up before the committee for consideration as for promotion, so the provisions of Arts. 14 and 16 of the Constitution of India are violated. The applicant was appointed as Inspector of Central Excise against a reserved post for Scheduled Caste by the Collector, Central Excise Allahabad

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on 24.3.1954 . The Ministry of Home Affairs have issued an office memorandum dated 25.6.1952 under which the confirmation of candidates belonging to the Scheduled Castes and Scheduled Tribe candidates. The grievance of the applicant is that ofcourse, he was entitled for confirmation but he was not confirmed and similarly he was not promoted in preference to his juniors who were also members of Scheduled community. As a matter of fact, he was entitled for promotion and confirmation w.e.f. that date subsequently, the applicant amended his writ petition and by amendment he has prayed that the respondents may be directed to fix the seniority and of the applicant in various grades to grant promotions to the applicant as granted to his juniors in accordance with law calculate the arrears and other consequential benefits and computation thereof and pay the same to the applicant and further a writ of mandamus be issued directing the respondents No. 1 to calculate the arrears and other consequential benefits resulting from the order dated 29.5.1981 promoting the applicant w.e.f. 11.6.1976 to the post of Inspector of Central Excise Senior Grade and pay the same to the applicant.

2. The respondents have refuted the claim of applicant ^{and} has ~~has~~ stated in their counter affidavit ~~had have stated~~ that as per the list of direct recruits in accordance with the inter-se-seniority, the applicant stood at Sl. No. 58. The said list was prepared keeping in view of the Board's letter dt. 20.4.1953, and the list prepared and circulated in the year 1962 the name of the applicant was at Sl. No. 432 in the seniority list. The applicant made a representation and his

representation was considered by the Board in consultation with the Department of Personnel & Administrative Reforms and a decision was taken that the case of the applicant might be referred to an adhoc Departmental Promotion Committee for adjudging his suitability for confirmation w.e.f. 22.2.1956 vide Board's letter dated 22.4.1974. As the respondent Nos. 2,3, & 4 who were juniors to the applicant were confirmed w.e.f. 22.2.1956 and the respondent no. 5 was confirmed w.e.f. 15.5.1961 but the applicant was not confirmed by the D.P.C. and the D.P.C. has given ^{its} report that the applicant was found unfit. The departmental promotion committee of September, 1964 for the first time considered separately the cases of SC/ST Inspectors. Sri V.S. Tamta who was his immediate senior SC Inspector and Shri M.P. Chaudhari his ~~senior~~ immediate junior SC Inspector, who were both confirmed w.e.f. due date i.e. 22.2.1956 were only considered for promotion for the first time by the said DPC of 1964. In view of the fact that the said D.P.C. approved him for confirmation from due date, his case was taken up by the said adhoc D.P.C. for adjudging his suitability for promotion to the grade of Deputy Superintendent from 1964 D.P.C. Taking into consideration the record, of his service, the committee found him not fit for promotion to the grade of Deputy Superintendent (E) by September/ October, 1964 D.P.C. The case of the applicant for promotion to the grade of Superintendent (B) was considered by the D.P.C. held in the year 1977 to 1980. The finding of the D.P.C. of the year 1977 was kept in sealed cover, and of the year 1978 was not considered due to the sealed cover and of the year 1979, not considered

due to stoppage of 2 increments and of the year 1980 was also not considered due to same very reason. He was found fit by the D.P.C. of 1982 for the post Superintendent Grade(B). The applicant could have been normally promoted to the grade of Deputy Superintendent (B) in September, 1965. The Board approved the findings of the D.P.C. with the condition that Shri Hirdaya Ram will not be entitled to retrospective monetary benefits that would have been admissible to him by virtue of this decision. Accordingly, his case was considered by the DPC which approved him for promotion to the grade of Superintendent of Central Excise Class-II in the year 1969 and consequently, he was promoted to the grade of Superintendent of Central Excise Class-II on 30.8.1969. The applicant did fall in the consideration zone for promotion to the grade of Superintendent of Central Excise Class-II during that year. Thus, if the D.P.C. has not found fit for a particular office, the applicant has no grievance against the same and whatever the maximum relief could be given, has been given to the applicant and if the minor relief could have not been granted to the applicant because of his being unfit for promotion, by the D.P.C., no case for interference by the applicant has been made out and accordingly, as the relief has been granted to the applicant, the application deserves to be dismissed. Even if, in case the pensionary benefits have not been given to the applicant, the same may be given to him by the respondents within a period of 3 months from the date of communication of this order. No order as to costs.

(n.u.)

Member (A)

Dt. 19.8.1992

Vice-Chairman