

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

O. A. No. 336 of 1990 DATE OF DECISION : 21/8/95
T. A. No.

-- Narendra Nath Datta - APPLICANT(S)

- By Advocate for Sudhir Agarwal ADVOCATE FOR THE
APPLICANT(S)

V E R S U S

- The Owner of Omkar - - - - - RESPONDENT(S)

- Sri A. Mohilay - - - - - ADVOCATE OF THE
RESPONDENT(S)

C O R A M

The Hon'ble Mr. Justice B. C. Saksena KC

The Hon'ble Mr. S. Daya Chandrami

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether to be circulated to all other Bench ?

VKP/-

15
(SIGNATURE)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ADDITIONAL BENCH AT ALLAHABAD.

O.A. No. 336 Of 1990

August
Dated: 21 July, 1995.

Hon'ble Mr. Justice B.C. Saksena, V.C.

Hon'ble Mr. S. Das Gupta, Member (A).

Virendra Nath Dutta,
Presently posted as Assistant
Surveyor of Works in the
Office of Chief Engineer,
Military Engineering Service,
Lucknow Zone P.O. Dilkusha
LUCKNOW (CANTT.) - - - - - APPLICANT .

(By Advocate Sri Sudhira Agrawal).
VERSUS

1. The Union of India
through Secretary, Ministry of
Defence, New Delhi.
2. Engineer in Chief, Army Headquarters,
Kashmira House, DHQ, P.O.
New Delhi.
3. The Chief Engineer, Engineers Branch,
Headquarter Central Command,
Lucknow (Cantt.).
4. Yashpal Khanna.
5. Sri Surinder Kumar Jindal.
6. Sri V.K. Rajappan.
7. Sri Om Prakash Kakar.
8. Sri Ram Narayan Neema.
9. Sri M. Vijaya Bhanu.
10. Sri Surendra Kumar Gulati.
11. Sri Jagdish Anand.
12. Sri N.A. Parikh.
13. Sri Gurcharan Singh (Guhania).

Wf

14. Sri Harimohan Srivastava.
15. Sri Gyan Prakash Minotra.
16. Sri Puran Chand Jain.
17. Sri Krishna Kumar.
18. Sri Morja Dayanand Dapurao.
19. Sri Sita Ram Varshney.
20. Sri Trilochan Singh.
21. Sri Om Prakash.
22. Sri Babu Shanker Molhazlli.
23. Sri V.V.Soma Sekhara Rao.
24. Sri K. Ravi Babu.
25. Sri K.C. Devan.
26. Sri M. Thomas John.
27. Sri Anand Kumar Gupta.
28. Sri Surender Singh.
29. Sri Fateh Singh Verma.
30. Sri Jagdish Narain Seth.
31. Sri Rupendra Rastogi.
32. Sri Vinod Kumar.
33. Sri M.D.Upadhyaya.
34. Sri J.S. Chauhan.
35. Sri B.N. Tripathi.
36. A.C. Dutta.
37. Sri V.K. Gupta.
38. Sri D.K. Bakshi.
39. Sri B.N. Baral.
40. Sri S.K. Pradhan.
41. Sri R.A. Tyagi.
42. Sri Gurbux Singh.
43. Sri K.S. Vaish.
44. Sri A.K. Chakrabarty.

W.L.

45. Sri Vishnu Dutta.
46. Sri S.K. Yadav.
47. Sri N.K. Mittal.
48. Sri S.K. Dewan.
49. Sri S.K. Vasti.
50. Sri Abinash Chandra.
51. Sri K.G. Sambandan.
52. Sri H.K. Murthy.
53. Sri S.K. Sardana.
54. Sri K.N. Kapoor.
55. Sri G.S. Guraja.
56. Sri R.K. Khanna.
57. Sri S.P. Narendran.
58. Sri Balbir Singh.
59. Sri U.C. Misra.
60. Sri Ghanshyam Misra.
61. Sri S.K. Raina.
62. Sri D.K. Dey.
63. Sri N. Nandigrani.
64. Sri T.C. Johar.
65. Sri Kalyan De.
66. Sri H.S. Sainbhy.
67. Sri K.B. Roy.
68. Sri S.K. Srivastava.
69. Sri V.K. Malik.
70. Sri C.K. Krishnanan.
71. Sri T. Anand Krishnan.
72. Sri M.P. Jain.
73. Sri B.P. Chatterjee.
74. Sri K.C.R. Nair.
75. Sri S. Kumar.
76. Sri S.K. Ray.

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77. Sri R.P. Tripathi.
78. Sri A.M.G.Gass.
79. Sri G. Devdas.
80. Sri A.N. Rajvi.
81. Sri S.M. Chaudhary.
82. Sri S.R. Ghosh.
83. Sri V.M. Borate.
84. Sri S.S.Kubili.
85. Sri B.R. Chawla.
86. Sri K.V. Kattan.
87. Sri I.L. Jadwani.
88. Sri Bhopal Singh.
89. Sri O.P. Dingara.
90. Sri N.K. Nagpura.
91. Sri M.P. Pillai.
92. Sri B.S. Battatraya.
93. Sri B.K. Goyal.
94. Sri A. Latif.
95. Sri K.M. Sarkar.
96. Sri P. Murlidharan.
97. Sri Manohar Lal.
98. Sri P.L. Chima.
Respondent Nos. 4 to 98 are through
the Engineer-in-Chief, Army Headquarters,
Kashmir House DHQ, P.O.
NEW DELHI. - - - - - RESPONDENTS.

(By Advocate Sri Ashok Mohiley).

O R D E R

(By Hon'ble Mr. S.Das Gupta, Member(A))

W.C.

This application which was originally filed on 20.4.1990 seeking interalia the relief of quashing the proceedings of Departmental Promotion Committee held for making a panel for promotion to the post of Assistant Surveyor of Works (A.S.W. for short) in the Military Engineering Services in the year 1987-88 and consequential orders dated 8.3.1990 and of a direction to the respondents to hold a meeting of the D.P.C. afresh was dismissed by a Bench of this Tribunal vide judgment and order dated 29.4.1991. The application was filed by the petitioner seeking a review of the said order on the ground that the Bench had not taken note of the decisions of another Bench in a similar matter. The Bench which had passed the earlier order, allowed the review application, recalled the order dated 29.4.1991 and ordered rehearing of the matter. This case, thus, came before us for hearing.

2. The facts of the case have been exhaustively traversed in the order dated 29.4.1991 and also in the order dated 8.1.1992 by which the review application was allowed. It would suffice to indicate that the applicant who was already working on the promotional post of A.S.W. to which post he was promoted on adhoc basis, was not included in the panel for regular promotion to these posts when the D.P.C. meeting was held in 1990 to prepare a panel for regular promotion. The applicant was graded as 'Good' by the D.P.C. and thus was superseded by his juniors who were graded as 'Very

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'Good' or 'Outstanding'. The applicant had challenged the supersession on the ground that ~~while~~ some of the A.C.Rs which formed the basis ^{of} ~~for~~ assessment by the D.P.C. pertained to a period during which he was working on the higher post of A.S.W. whereas, the A.C.Rs of his juniors ~~which~~ were taken into consideration by the D.P.C. related to their performance in the lower feeder grade. It was contended by the applicant that as no weightage was given for his officiation on ~~the~~ higher post, the grading given by ~~at~~ the D.P.C. was arbitrary and discriminatory.

3. It appears that while the Allahabad Bench of this Tribunal negated the contention of ~~the~~ application that ~~any~~ weightage should be given for the assessment of his A.C.Rs by virtue of his officiation on a higher post, the Madras Bench took a different view and in a similar matter held that such weightage should be given. In a similar matter, however, the Hyderabad Bench took a different view and thus the matter was referred to a Full Bench for decision. The Full Bench interalia upheld the view of Madras Bench and also formulated the manner in which such weightage should be given. It laid down that if the A.C.R. of A.S.W. reflects 'Good', it should be taken as 'Very Good' and if 'Very Good' it

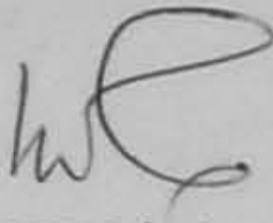
should be taken as 'Outstanding'. This was ~~the~~ decision in ~~the~~ Full Bench case of ~~Mr.~~ S.S.Sambhu and others Vs. Union of India and others, 1992(1) C.A.T.(Hyderabad), 225.

4. During the course of argument, Sri Sudhir Agrawal, learned counsel for the applicant brought to our notice that the ~~full~~ Bench decision was subsequently challenged by the Union of India by filing a S.L.P. before the Supreme Court and that the Supreme Court has since dismissed the S.L.P. and upheld the decision of the Full Bench in S.S. Sambhu's case and also held that the formula evolved by the Full Bench for comparative assessment of merit is just and proper having regard to the facts and circumstances and the practicability of the situation. A copy of ~~the~~ decision of the Supreme Court dated 17.11.1994 has also been annexed to the Misc. Petition No. 242 of 1995 filed by ~~the~~ applicant. Sri A. Mohiley, learned counsel for the respondents conceded this position.

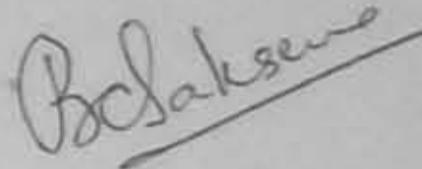
5. Since the case before us is fully covered by the Full Bench in S.S.Sambhu's case which has become final by the Supreme Court's order dated 17.11.1994, we direct that the respondents shall hold a review D.P.C. to assess the merit of ~~the~~ applicant on the basis of the formula evolved by the Full Bench in S.S. Shambhu's case. In case, on the basis of such re-assessment of merit, the D.P.C. empanel him for the post of A.S.W., he shall be promoted on regular

basis w.e.f. the date on which his immediate junior was regularly promoted with all consequential benefits.

6. The Original Application is allowed on the above terms. There shall be no order as to costs.


W.E.

MEMBER (A)


B.C. Akseer

VICE-CHAIRMAN

(N.U.)