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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION No. 4 OF 1986.

Date of decision : July 30, 1987.

Debaraj Singh ... Applicant

Versus

Union of India and others ... Respondents.

For Applicant : In person.

For Respondents: Mr. Ganeswar Rath,
Addl. Standing Counsel (Central).

C O R A M :

THE HON'BLE MR. B.R. PATEL, VICE CHAIRMAN

A N D

THE HON'BLE MR.K.P. ACHARYA, MEMBER (JUDICIAL)

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1. Whether reporters of local papers may
be allowed to see the judgment ? Yes .
 2. To be referred to the Reporters or not ?
 3. Whether their Lordships wish to see the
fair copy of the judgment ? Yes .
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J U D G M E N T

K.P. ACHARYA, MEMBER (J), In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays to quash Annexures- 2,4,5,6,7 and 8.

2. Shortly stated the case of the petitioner is that he joined as Surveyor in the office of the Survey of India, Bhubaneswar and the applicant was confirmed in the post of Surveyor with effect from 26.11.1982. Further case of the petitioner is that even though he has served the Department honestly, efficiently and sincerely, yet the higher authorities with ulterior motives have made adverse remarks in his confidential roll for which the applicant is not being allowed to cross the efficiency bar with effect from 1.10.1983 which was due date for crossing the efficiency bar. Further case of the petitioner is that the concerned authorities are not allowing him to cross the efficiency bar even with effect from 1.10.1984. Hence the applicant prays to quash Annexures-2,4,5,6,7 and 8. Annexures-2 and 4 contain the communication of the adverse remarks in his confidential rolls for the years 1982-83 respectively. Annexure-5 contains the information given to the petitioner that his representation stands dismissed. Annexure-6 is a letter addressed by the Superintending Surveyor addressed to O.C.No. 77(P) Party (SEC), Bhubaneswar to inform Sri Debaraj Singh (the present applicant) that his case for crossing of efficiency bar would be considered with effect from 1.10.1984. Annexure-7 is also a letter under which the petitioner was informed that his case was

considered by the Departmental Promotion Committee to allow him to cross the efficiency bar with effect from 1.10.1984 and he was found to be unfit. Annexure- 8 contains the information given to the petitioner that his representation deserves no merit which stands dismissed.

3. In their counter, the respondents- Opp. Parties maintained the case of the applicant was referred to the Departmental Promotion Committee on both the occasions and he was found to be unfit.

4. We have heard the petitioner in person and Mr. Ganeswar Rath, learned Addl. Standing Counsel (Central) for the respondents. In cases of this nature, law is well settled that once the petitioner is found to be unfit by the competent authority, the Tribunal cannot lay its hands for interference unless it is shown that the decision taken by the competent authority was backed by malafide or bias. We had called for the relevant records and we have found that the Departmental Promotion Committee had considered the case of the petitioner to allow him to cross the efficiency bar during the relevant period and he was found to be unfit. As regards bias and malafide, the only averment which appears in the application is that the respondents- Opposite Parties Nos. 3 and 4, namely, the Director, South Eastern Circle and the Officer in-charge No. 77 (P) Party (S.E.C.) Survey of India, Plot No. 767, Sahidnagar, Bhubaneswar had borne a grudge against the petitioner as they had collected Rs.3/- from every individual staff of the office including the applicant

in December, 1982 to pay to Sri B.V.Rao , one of the employees in the office which was strongly opposed by the applicant. Even if the question of opposing this action of the respondent Nos. 3 and 4 would be true (of which there is no proof at all), there is no evidence before us that there was any malafide or bias existing in the minds of the members of the Departmental Promotion Committee who have found the petitioner to be unfit. In absence of any such proof, we cannot but be slow to accept the case of the petitioner with utmost certainty. The contention of the petitioner is to quash Annexures-2 and 4. We do not feel inclined to accept the prayer of the petitioner because performance of the petitioner can be well judged by the higher authority who is competent to record his views relating to the performance of the petitioner. We have no scope to say anything on this matter . The Departmental Promotion Committee having found the petitioner to be unfit and therebeing no proof of the fact that the members of the Departmental Promotion Committee were entertaining any malafide motive against the petitioner, we find that this application is devoid of any merit which stands dismissed leaving the parties to bear ~~the~~ their own costs.

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Member (Judicial)

B.R. PATEL, VICE CHAIRMAN, *I agree*

Burkhu
30.7.87.
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Vice Chairman.

Central Admn.Tribunal,
Cuttack Bench, Cuttack.
July 30 , 1987/Roy.

