

TV
8
X

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

Original Application No. 234/87

Date of decision .. November 29, 1988.

Sri S.B Saxena,
S/O late K.B Saxena,
At present working as
Asstt. Soil Conservation Officer,
M.V.79, P.O Lachhipeta,
Dist- Koraput. Applicant

Versus

1. Union of India, represented through the Secretary, Department of Rehabilitation, At-Jaisalmer House, Mansing Road, P.O. New Delhi-11. Respondents
2. The Chief Administrator, Dandakaranya Project, At/P.O/P.S./Dist. Koraput. Respondents

M/s. S. Misra-I
Saroj Misra,
Advocates ... For Applicant

Mr A.B Misra
Sr Standing Counsel(Central Govt.) ... For Respondents

C O R A M

The Hon'ble Mr .B.R Patel, Vice-Chairman
And
The Hon'ble Mr K.P Acharya, Member(Judicial)

..

1. Whether reporters of local papers have been permitted to see the judgment ? Yes.
2. To be referred to the Reporters or not ? Yes
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

JUDGMENT

K.P ACHARYA, MEMBER (J), In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to quash Annexures 1 to 5 and pending disposal of Review Application No. 205 of 1986, direct the Respondents-Opposite Parties to promote the petitioner as Agricultural Officer in compliance with the directions of this Tribunal.

2. Shortly stated, the case of the petitioner is that while working as Senior Technical Assistant since 19 July 1965, he was confirmed in the said post in the year 1985. The petitioner was holding the post of Assistant Executive Officer (Senior) under the Dandakaranya Development Authority. Promotion having been denied to the petitioner to the post of an Executive Officer and in supersession to the claim of the petitioner, his juniors having got promotion, the petitioner filed an application under Article 226 of the Constitution, praying therein to issue appropriate writ commanding the Respondents-Opposite Parties to give due promotion to the petitioner to the post of an Executive Officer and this case forms the subject matter of O.J.C No. 599 of 1985. By virtue of the operation of Section 29 of the Administrative Tribunals Act, the case was transferred to this Bench and it forms the subject matter of T.A No. 205 of 1986. Judgment in the said case was delivered on 30th January, 1987. Grievance of the petitioner in the present application is that having

approached the Court for necessary redress, the concerned authorities held a grouse against the petitioner and his legitimate claim for promotion to the post of Agricultural Officer was illegally denied to him and therefore this application has been filed with the aforesaid prayer. In their counter, the Opposite Parties maintained that the case of the petitioner was considered by the Departmental Promotion Committee alongwith other incumbents and the Departmental Promotion Committee not having recommended the case of the petitioner, the competent authority had no other option, but to give promotion to the person who was entitled to the same as per the recommendation of the Departmental Promotion Committee and necessarily the claim of the petitioner stood rejected.

3. We have heard Mr Srinivas Misra, learned Counsel for the petitioner and Mr A.B Misra, learned Senior Standing Counsel for the Central Government at some length. Ofcourse in the averments, both in the application under Section 19 filed by the petitioner and in the averments finding ~~case~~ ^{place} in the counter filed on behalf of the Central Government, several facts have been mentioned, which are irrelevant for the purpose, because the Court has to confine itself to the prayer of the petitioner and in such circumstances we do not feel inclined to deal with any other fact or facts, except the question of promotion

11
11

of the petitioner to the post of Agricultural Officer. Before dealing with this aspect, it is worthwhile to mention that prayer of the petitioner in T.A No.205/86 was to command the Respondents-Opposite Parties to consider the case of the petitioner for promotion to the post of Executive Officer. After hearing the case on merits ^{our} we held in/ judgment that there was no merit in the case and therefore it was dismissed. But in paragraph 6 of the judgment, we stated as follows:-

"Before parting with the case we would, however observe that being a permanent member of the Agriculture cadre, the petitioner is entitled to promotion in his parent cadre. His case should be considered for promotion in his parent cadre if any promotional vacancy has occurred in that cadre during the period of his deputation and if found suitable should be given promotion with effect from the date such vacancy has arisen."

This judgment was sought to be reviewed at the instance of the petitioner and a Review Application was filed which forms subject matter of Review Application No.6 of 1987, which has also been heard on merits and it has been dismissed by a judgment delivered today. Therefore keeping in view the aforesaid facts and the limited prayer of the petitioner, indicated above, the Bench is now required to give a finding as to whether promotion of the petitioner to the post of Agricultural Officer

4N

has been illegally denied to him and if so, whether he is entitled to promotion to the said post. It may also be stated that in compliance with the directions given by this Bench in paragraph 6 of the judgment quoted above, the concerned authorities had considered the case of the petitioner for promotion to the post of an Agricultural Officer. Law is well-settled that a particular employee has no right to claim promotion, though he has a right to say that his case should be considered. From the averments in the counter it is found that the case of the petitioner was considered for promotion alongwith others and it is stated therein that the D.P.C held on 28 March 1987 had considered the case of the petitioner and one K.S.N Murty and two others. Further averment in the counter is that the D.P.C assessed the petitioner as 'Good' whereas Shri K.S.N Murty was assessed as 'Very Good'. This fact asserted on behalf of the Respondents could not be rebutted by the petitioner. To ~~act~~^{add} to all this we may state that there is no iota of allegation of malafide on the part of the D.P.C or the competent authority. In such circumstances we are of the opinion that there was no other option left with the competent authority but to give promotion to the officer who has been assessed as 'Very Good', i.e., Shri K.S.N Murty in preference to the present petitioner.

4. In view of the aforesaid facts and circumstances
lun

we find no merit in the application which stands dismissed leaving the parties to bear their own costs.

Agree
..... 29. XI. 88
Member (Judicial)

B.R. PATEL, VICE-CHAIRMAN

I agree.

B.R. Patel
..... 29. XI. 88
Vice-Chairman



Central Administrative Tribunal,
Cuttack Bench, Cuttack
November 29, 1988/N.J. Joseph, Sr P.A.