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V

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application No. 278 of 1988.

Date of decision : April 23, 1990.

Sushil Chandra Bose ... Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ... M/s-Devanand Misra  
Deepak Misra  
R.N.Naik, Advocates

For the respondents ... Mr.Tahali Dalai,  
Addl. Standing Counsel (Central)

CO R A M :

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

A N D

THE HON'BLE MR. N. SENGUPTA, 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 ? No
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

N. SENGUPTA, MEMBER (J) In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for direction to Respondents 1 to 3 to select him for being promoted to the cadre of Postal Superintendent Group B from the date Respondent Nos. 4 to 12 were promoted

*N.Sengupta  
13/4*

2. The case of the applicant is that at the time of filing the application he was working as Assistant Superintendent, Railway Mail Service, North Division, Cuttack. He passed the required examination in the year 1965 and was confirmed against that post on 1.3.1969. While functioning in the cadre of Assistant Superintendent, Railway Mail Service, he had officiated as Superintendent of Post Offices, Bolangir Division by an order dated 6.4.1987, copy of which forms Annexure-1 to the application. In 1987 a list of eligible candidates for promotion to the grade of Postal Superintendents Group B was drawn up and his name was at Serial No.98, those of Respondents 4 to 12 were below his. In September, 1987, a Departmental Promotion Committee meeting was held but the D.P.C. did not consider his case properly for which reason though Respondents 4 to 12 were promoted, he had not been, by the date of application, promoted to the cadre of P.S.S. Group B. Against this non-promotion, he made a representation on 7.3.1988 which was rejected on 4.5.1988 and a copy of the communication about the rejection is Annexure-4 to the application. These are the allegations on which the applicant has sought for the reliefs stated above.

3. The respondents in their counter besides traversing the allegations made in the application have taken the stand that though Respondents 4 to 12 were juniors to the applicant they were promoted on the basis of their performance as reflected in their Annual Confidential Rolls.

*Memorandum  
No 234/90*

4. We have heard Mr. Deepak Misra, learned counsel for the applicant and Mr. Tahali Dalai, learned Additional Standing Counsel (Central) for the respondents. From Annexure- R/1 to the counter of the respondents, which is a copy of the notification about the Rules for recruitment to the posts of Postal Superintendent/Post Master Group B, it would be found that the appointment to this cadre would be by promotion and the posts are selection posts. When promotion is by selection, mere seniority would not entitle a person to be promoted to such grade, in case of selection posts, promotion is to be made on merit cum seniority basis. In order to satisfy ourselves as to whether Respondents 4 to 12 were promoted in a proper manner, we called for the proceedings of the D.P.C. meeting held in September, 1987 to select Officers for promotion to Postal Superintendent Group B. From the list prepared we find that as many as 531 persons were considered and after examining the A.C.Rs. of those officers, D.P.C. assessed the performance of the concerned officers. The D.P.C. recommended 148 persons for promotion and recommended another 20 persons to be kept in reserve in case any of the 148 recommended for promotion forego promotion. On examining those two lists we do not find the name of Respondent No.11, Shri Harihar Mishra included either in the list of persons to be promoted or kept in reserve for promotion. Most probably he has not been promoted. On going through the D.P.C. proceedings we find that the performance of

*Recd Sept 4  
23/4*

Respondents 4 to 10 and 12 were assessed to be better than that of the applicant. Therefore, the applicant can not have any grievance against the promotions of these respondents. None of the parties has filed any copy of the alleged promotion of Respondent No.11, Harihar Mishra to the grade of Postal Superintendent/Postmaster Group B. We have already observed that most probably Respondent No.11 has not been promoted as his name is not to be found in the list of persons recommended to be promoted or kept reserved for promotion. In the circumstances, we would observe that the applicant cannot succeed in this application. However it is made clear that if really the Respondent No.11 was promoted prior to the promotion of the applicant, to the grade of Postal Superintendent Group B, the applicant would be at liberty to approach this Tribunal later, subject to course to limitation prescribed under the Administrative Tribunals Act, time should be deemed to run from today. No costs.

*Murali* ..... 23-4-90  
Vice-Chairman

*Abdul* ..... 23-7-90  
Member (Judicial)

