

22

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original application No. 365 of 1983.

Date of decision: November 5, 1990.

Rabindranath Patnaik ... Applicant.

Versus

Union of India and others ... Respondents.

For the applicant ::: Mr. G. A. R. Dora, Advocate.

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

C O R A M:

THE HONOURABLE MR. B. R. PATEL, VICE-CHAIRMAN  
A N D

THE HONOURABLE 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 ? *yes*
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

B. R. PATEL, VICE-CHAIRMAN, In this application, the applicant has prayed for orders quashing the promotion of Respondents 4 & 5 and quashing the rejection orders of his representations (Annexures-A/5 & A/6). Respondents 4 & 5 namely Shri C. Radhakrishnan, and Shri Kasturba Nand Joshi were junior to the applicant in the grade of Assistants but they have been promoted earlier to the promotional post of Section Officers.

*[Signature]*

2. Respondents have maintained in their written reply that the posts of Section Officers are selection posts to which promotion is made on principle of merit cum seniority. The Departmental Promotion Committee which met for consideration of cases of eligible Assistants found Respondents 4 & 5 to be more meritorious than the applicant and as such graded them <sup>better and</sup> ~~higher~~ placed <sup>than</sup> in the panel as per the Rules, than the applicant. <sup>then higher</sup>

As the Rules have been followed and no irregularity has been committed by the Departmental Promotion Committee in their deliberation, the applicant has no case.

3. We have heard Mr. G.A.R. Dora, learned counsel for the applicant and Mr. Tahali Dalai, learned Additional Standing Counsel (Central) for respondents 1 to 3 and perused the documents. Mr. Dora has brought to our notice Annexures-A/3 and A/4. The latter is in reply to the former. Annexure-A/4 which is dated 10.6.1988 has been issued by the Assistant Director (B) of the Aviation Research Centre on orders of the Competent authority. In the representation i.e. Annexure-A/3 the applicant wanted to know amongst other information sought, number of vacancies filled indicating the order in which the posts fell vacant from time to time and in reply to that in Annexure-A/4 the following information has been furnished.

1st vacancy ... September, 1987.

2nd vacancy ... May, 1988.

3rd vacancy ... November, 1988.

End

Mr.Dora on the basis of this information as well as the one at Annexure-A/7 has argued that had not all these vacancies been clubbed , the applicant would have been promoted earlier than Respondents 4 & 5 and as such would have been senior to them. Mr.Dalai controverted the points urged by Mr.Dora and produced the minutes of the Departmental Promotion Committee at our instance. From the D.P.C. minutes we have found that the D.P.C. met on 7.3.1988 and 18.3.1988 and considered the cases of the eligible Assistants for three vacancies in the grade of Section Officers which were available or likely to be available ' during the current year' accruing to promotion quota. In the grading given by the D.P.C. Respondents 4 & 5 have been given better grading than the applicant and as such the applicant has been kept in the reserved list. Relying on the Office Memorandum of the Department<sup>al</sup> of Personnel & Administrative Reforms, Ministry of Home Affairs bearing No.22011/3/76-Estt (D) dated 24.12.1980 which lays down the principles for promotion to selection post, Mr.Dora has urged that as Section Officer<sup>f</sup> was a selection post, promotion should be made year-wise and the vacancies should not have been clubbed. As there was a vacancy in the year 1987, for this vacancy, 5 persons ~~sh~~ould have been considered and Assistants senior to the applicant having better grading would have been selected. This would have however reduced the number of vacancies from 3 to 2 resulting in reducing the number of eligible candidates to be included in the consideration zone. According to the Office Memorandum referred to above for two vacancies<sup>the</sup> number of officers to be considered is

1-2

8. As per the seniority list furnished by the applicant at Annexure-A/1, Mr.Dora urged that Respondents 4 & 5 could not have come within the consideration zone and therefore better grading would not have pushed the applicant down in the seniority interse. There is a valid point in the argument of Mr.Dora. Moreover, we have found from the paragraph 5 of the minutes of the D.P.C. that in the list of candidates they considered the names of Respondents 4 & 5 occurred at Serial Nos.9 and 10.Had the consideration been according to year-wise without bunching the vacancies persons upto serial No.9 would have been considered as the person at Serial No.2 who was senior to the applicant could have been promoted against the vacancy of 1987, though the consideration could have been done by the same D.P.C. on the same day. By clubbing the vacancies the circular of the Ministry of Home Affairs referred to above has been violated and as such we direct that a review Departmental Promotion Committee should be convened and the cases of the candidates should be considered according to the year-wise vacancies as has been laid down by the Office memorandum referred to above. We hope it should be possible for the Department to convene a meeting of the review Departmental Promotion Committee within a period of three months from the date of receipt of a copy of this Judgment.

4. This application is accordingly disposed of. There

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26

would be no order as to costs.

*Pran Moh* 5.11.90  
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Vice-Chairman



Central Administrative Tribunal,  
Cuttack Bench, Cuttack.  
November 5, 1990/Saranghi.

*Mr. Euph* 5/11/90  
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Member (Judicial)