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Loknath Sahani

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Versus

Union of India & Others

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(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not? *Yes*
2. Whether it be circulated to all the Benches of the *Yes*
the Central Administrative Tribunals or not?

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No. 347 of 1992

Date of decision: January 17, 1994

Lokanath Sahani ... Applicant
Versus
Union of India & Others ... Respondents
For the Applicant ... M/s S. Kr. Mohanty, S. P. Mohanty,
Advocates
For the Respondents ... Mr. Ashok Misra, Senior
Standing Counsel (Central)

CORAM:

THE HON'BLE MR. K. P. ACHARYA, VICE CHAIRMAN
&
THE HON'BLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

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O R D E R

K. P. ACHARYA, V. C.

While the petitioner was working as a Sub-Divisional Inspector (Postal), Athagarh, his case was due to be considered for promotion to the Post of Assistant Superintendent of post Offices. The Departmental Promotion Committee had met on 10th April, 1992 but according to the petitioner his case ^{was} not at all considered which is an illegality committed by the Departmental Authorities and therefore, this application has been filed with a prayer to direct the Opposite Parties to consider the case of the petitioner to adjudicate his suitability for

promotion to the post of Assistant Superintendent of Post Offices.

2. In their counter, the Opposite Parties maintain that the case of the petitioner was duly considered but opinion of the Departmental Promotion Committee was kept in a sealed cover because by the date on which the Departmental Promotion Committee had met, a vigilance enquiry was pending against the petitioner and which ultimately resulted in submission of chargesheet against the petitioner on 8th September, 1982 and 14th October, 1992. Therefore, in such circumstances, no illegality has been committed by the concerned authority and hence the case being devoid of merit is liable to be dismissed.

3. We have heard Mr. S.P. Mohanty learned counsel appearing for the Petitioner and Mr. Ashok Misra, learned Senior Standing Counsel (Central). Mr. Mohanty learned counsel appearing for the petitioner invited our attention to the judgment of the Hon'ble Supreme Court in the case of Union of India Vs. K.V. Jankiraman reported in AIR 1991 SC 2010. Later the Hon'ble Supreme Court has also considered the case of K.V. Jankiraman (supra) in a case reported in 1993 (2) 24 Judgments Today 695 (Delhi Development Authority Vs. H.C. Khurana) and came to the conclusion that the date of issue of chargesheet is the deemed date of initiation of a proceeding against a particular employee under the Government. Therefore, keeping in view the cases of K.V. Jankiraman and Delhi Development Authority Vs. H.C. Khurana it cannot but be held that

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the deemed date of initiation of proceeding is the date of issue of chargesheet. In the present case, the chargesheet was issued in both the proceedings much later than 10th April, 1992. Hence it can be said with confidence that on 10th April, 1992, there was no disciplinary proceeding pending against the petitioner and therefore, following the view taken in the cases of Jankiramana and H.C. Khurana, there was no necessity for the Departmental Promotion Committee to adopt the sealed cover procedure. In the circumstances, we would say that the opinion of the Departmental Promotion Committee in regard to the performance of the petitioner kept in a sealed cover is of absolutely no avail. It is directed that a fresh selection committee be convened and the case of the petitioner be considered ^{as} on 10th April, 1992 for adjudicating his suitability for promotion to the post of Assistant Superintendent of Post Offices and if he is found to be suitable, promotion be given to the petitioner.

4. Before we part with this case, we must say that this selection process must be completed within 60 days from the date of receipt of a copy of the judgment.

5. Thus, the application is accordingly disposed of.
No costs.

Member (Administrative)
Central Admn. Tribunal,
Cuttack Bench/K. Mohanty
17th January, 1994.

K. S. Chakrabarty
17-1-94
Vice-Chairman