

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 441
To Ax Nox

1990

DATE OF DECISION 28-2-1991

M. Sukumaran _____ Applicant (s)

M/s. O.V. Radhakrishnan & Radhamani Amma _____ Advocate for the Applicant (s)

Versus

The Chairman, Postal Services Board, Director General of Posts, Office of the DGP, Dak Bhavan, New Delhi 110 001 and 6 others Respondent (s)

Mr. TPM Ibrahim Khan ACGSC _____ Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P. Mukerji, Vice Chairman

The Hon'ble Mr. N. Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

N. Dharmadan, Judicial Member.

In this application filed under section 19 of the Administrative Tribunals Act 1985, the applicant, who is at present working as Assistant Superintendent of Post Offices, Alleppey Division challenges the order of promotion of respondents 4 to 7 by Annexure A-4 order dated 1-11-1989.

2. The brief facts of the case are that the applicant who entered the service as Postal Clerk in 1959 xxx, was promoted as Upper Division Clerk in 1965 ~ and subsequently as Postal Inspector on 27-4-1973. and that

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he xxxxxx was further promoted to the post of Assistant

Superintendent of Post Offices on 31-7-1982, but he was denied earlier promotion to Postal Services Group 'B'.

3. The applicant and the respondents 4 to 7 belong to scheduled caste community having assigned seniority and rank at serial number 154, 155, 161, 162 and 164 respectively. in the gradation list of Sub Divisional Inspector (Postal) as on 1-7-1982. According to the applicant he is senior to the respondents 4 to 7. The next promotion to the cadre of Postal Superintendent (Post Masters Group B in Department of Posts) is governed by Exhibit A-2 Recruitment Rules viz. Department of Posts, Postal Superintendent/Postmasters Group 'B' Recruitment Rules 1987 (hereinafter referred to as Recruitment Rules 1987). The Recruitment Rules, inter alia provide that post of Postal Superintendent (Group-B) is a selection post and the selection is made by promotion. It further stipulates that 94% of selection 'by promotion' is to be made from amongst officers holding the post of Inspector Post Offices or Inspector, Railway Mails who have put in regular service in the scale of Rs.1640-2800 for five years. Admittedly, the applicant fully satisfies the eligibility conditions prescribed for promotion to the post of Postal Superintendent (Group B) and he has got a good record of service. His conduct and performance of duties did not come up for adverse notice so far. and he has not been intimated any adverse remarks so far. Inspite of all these facts, the

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second respondent did not include the name of the applicant in the panel for promotion to the post of Postal Superintendent (Group B) but his juniors respondents 4 to 7 have been included in the panel for selection. Subsequently, the first respondent issued letter dated 1-11-89 appointing the respondents 4 to 7 and other 319 officials to officiate in Postal Service Group 'B' with immediate effect as per Annexure A-4 order. The applicant submitted a representation against the appointment of respondents 4 to 7 and filed this application for quashing the selection and appointment of respondents 4 to 7 in the cadre of Postal Service Group-B.

4. The respondents 1 to 3 filed reply statement admitting that the promotion to the cadre of Postal Service Group-B is governed by the Recruitment Rules 1987 at Annexure A-2 dated 1-3-1988 issued under Article 309 of the Constitution of India. It is submitted that the applicant passed the examination for promotion to the cadre of Inspector of Post Offices held in 1972 and he was promoted as Inspector of Post Offices on 27-4-1973. It is further submitted by the respondents that the case of the applicant was considered for further promotion to the cadre of Postal Service Group-B in the year 1989 by the Departmental Promotion Committee for the above selection but in the assessment, the Departmental Promotion Committee held that he was

'Not yet fit' for promotion and he was not placed in the select panel. Subsequently, the applicant was again considered by the Departmental Promotion Committee held in the year 1990 but the D.P.C. ⁱⁿ this time also [✓] him. did not select [✓] On the other hand, the D.P.C. found [✓] respondents 4 to 7 fit for promotion in 1987 since they satisfied the prescribed bench mark of 'good' and they were included in the select panel. Thus, when the applicant and the respondents 4 to 7 were considered by the D.P.C. for promotion to officiate the Postal Service Group 'B', the applicant was found unfit for promotion the D.P.C. while [✓] found respondents 4 to 7 fit for promotion. In this backdrop, the respondents 4 to 7 were selected and appointed to Postal Service Group 'B'.

5. The applicant has not filed any rejoinder denying the averments in the reply statements of the respondents.

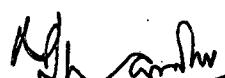
6. In the light of the clear statement in the reply statement filed by the respondents 1 to 3 that the applicant's case was considered by the Departmental Promotion Committee for selection of officials for promotion to Postal Service Group 'B' in 1989 and 1990 and [✓] ~~xxxxxxxxxx~~ that the applicant was found not fit, we ^{the} come to [✓] conclusion that the applicant has no case and [✓] it deserves to be dismissed. It is a well established [✓] ~~premiser~~ that Court or Tribunal shall not sit in appeal

over the decisions of the expert bodies such that of
Departmental Promotion Committee unless there is
allegation of malafide or bias attributed to D.P.C.

In this case before us, neither such allegation to that
effect has been made nor any material or document available, to
lead us to such conclusion. Hence, the application
fails in that count also.

7. In view of the facts and circumstance of the
case, we are of the view that the application is devoid
of merit and we dismiss the same.

We make no order as to costs.


(N. Dharmadan) 28.2.91

Judicial Member


(S.P. Mukerji) 28.2.91
Vice Chairman

28-2-91