

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 489 of 1994

Wednesday, this the 18th day of January, 1995

CORAM:

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN
HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

1. M Mukundan,
S/o P Sivasankara Menon,
Deputy Central Intelligence Officer,
Office of the Deputy Central
Intelligence Office, Cochin-11. .. Applicant

By Advocate Mr. MR Rajendran Nair

Vs.

1. The Director, Intelligence Bureau,
Ministry of Home Affairs,
Government of India, New Delhi.
2. The Additional Director (Est.)
Intelligence Bureau,
Ministry of Home Affairs,
Government of India, New Delhi.
3. Union of India represented by
Secretary to Government of India,
Ministry of Home Affairs, New Delhi.
4. Shri PR Pandey,
Deputy Central Intelligence Officer,
Subsidiary Intelligence Bureau,
Tata Press Building, II Floor,
V S Marg, Prabhadevi, Bombay.
5. Shri Rajendra Kumar,
Deputy Central Intelligence Officer,
Subsidiary Intelligence Bureau,
Gangotri Building, Basisth Road,
Beltola, Guwahati-28, Assam.
6. Shri SK Srivastava,
Deputy Central Intelligence Officer,
Intelligence Bureau,
Ministry of Home Affairs,
Government of India, North Block,
New Delhi. .. Respondents

By Advocate Mr.TPM Ibrahim Khan, Senior Central Government
Standing Counsel (R.1to3)

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN

Applicant a Deputy Central Intelligence Officer(shortly
called DCIO hereinafter) , seeks a declaration that he is entitled

to be ranked above respondents 4 to 6 in the category of DCIO. He was promoted as a DCIO by A-1 order dated 30.5.86 on the basis of a selection made by a Departmental Promotion Committee held in April, 1986. These facts are not in dispute. After sometime, applicant discovered that respondents 4 to 6 and one MN Vithalkar (since retired) were promoted later than him, but that they were granted seniority over him. According to applicant, those selected by a later Departmental Promotion Committee will rank junior to those selected by an earlier Departmental Promotion Committee. This proposition also is not disputed by Standing Counsel for Respondents.

2. But, he would justify the higher ranking granted to those selected by the Departmental Promotion Committee that met in August, 1986 on the ground that the selection was a common one. Counsel does not deny that two separate meetings were held by two Departmental Promotion Committees. To our mind, this is an attempt, though not a good one at that, to get over the illegality of revising the grading made by an earlier Departmental Promotion Committee.

3. We may now refer to the reply statement filed on behalf of respondents. It is stated that all the vacancies existing and arising were not correctly anticipated and:

"To cut(?) delay in finalising the Departmental Promotion Committee, it was decided to hold the Departmental Promotion Committee.....a consolidating(?) panel on the recommendations Departmental Promotion Committees held in two sittings in April, 1986 and August, 1986 for all the vacancies of the year."

4. We regret to say that respondents have resorted to untrue statements. Respondents try to convey the impression that there was only one Departmental Promotion Committee and that it took two sittings, to complete the selection. This can never be correct, because :

(a) if it was a single Departmental Promotion Committee and the vacancy position was before it as it should have been, then there is no occasion for respondents to realise that;

"some more vacancies of DCIOs were anticipated and it was decided to enlarge the panel."

(b) if it was the same Departmental Promotion Committee which held two sittings to finalise one list, it eludes comprehension (if it does not stand to intelligence) why or how before proceedings were completed after the second sitting in August, 1986, an order of appointment was issued on 30.5.86(A-1).

5. A-1 order of appointment on the basis of an earlier sitting could not have been issued on 30.5.1986, 3 months before the Departmental Promotion Committee concluded its work after it held its alleged second sitting in August, 1986. We must express our strong disapproval of the conduct of respondent Intelligence Bureau, in making an unintelligent and palpably untrue statement. For any one with reasonable powers of comprehension, it is difficult to believe that a Departmental Promotion Committee prepared one list in two sittings in April and August and issued an appointment order in May before the process of selection was complete. Further A-1 itself says:

"on promotion, the inter-seniority of the above officers in the grade of DCIO will be in the same order as approved by the DPC."

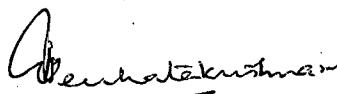
This gives the clearest indication that the panel was approved by the Departmental Promotion Committee and that the Departmental Promotion Committee was not half-way through with its deliberation, when it issued A-1 appointment order dated 30.5.86.

6. Obviously what has happened is that a second Departmental Promotion Committee met in August, selected certain persons, thereafter fused the two lists together, and virtually reviewed the findings and ranking made by the earlier

Departmental Promotion Committee which met in April and gave higher ranking to those selected by the second Committee. This performance should cast a shadow of doubt on the credibility of the Organisation and its skills. We quash the seniority granted to respondents 4 to 6.

7. That is not the end of the matter. Perhaps we have seen only the tip of the iceberg. Respondents have not placed before us the select lists, nor the seniority lists nor the respective position of employees. We do not know whether granting of an unqualified declaration in favour of applicant may work out injustice to those who are not before us and of whose existence we do not know. We direct respondent Intelligence Bureau to circulate a provisional seniority list to all affected persons under acknowledgement, consider the objections and issue a final seniority list. The original application is allowed with costs of Rs.7,000/- (Rupees seven thousand only) payable by Respondents 1 to 3. Rs.2000/- (Rupees two thousand only) will be paid to applicant and Rs.5,000/- (Rupees five thousand only) will be paid to Member Secretary, Supreme Court Legal Aid Committee, New Delhi-1. We exercise considerable restraint on ourselves and refrain from prosecution of respondents who have sworn to an affidavit, which to call it euphemistically, is not true.

Dated the 18th January, 1995.



P.V.VENKATAKRISHNAN
ADMINISTRATIVE MEMBER



CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN

LIST OF ANNEXURE

Annexure A.1: True copy of the order No. 30/DCIO/86
dated 30.5.86 issued by Anjan Ghosh,
Asst. Director.