

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 490/90
~~XXXXXX~~

199

DATE OF DECISION 24.12.91

TK Unnikrishnan Nair Applicant (s)

Mr N Anil Kumar Advocate for the Applicant (s)

^{Versus}
Union of India rep. by the
Secretary to Govt. of India, Respondent (s)
Ministry of Home Affairs
New Delhi and others.

Mr NN Sugunapalan, SCGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. NV Krishnan, Administrative Member
and

The Hon'ble Mr. AV Haridasan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? ✓
2. To be referred to the Reporter or not? Y
3. Whether their Lordships wish to see the fair copy of the Judgement? ✓
4. To be circulated to all Benches of the Tribunal? Y

JUDGEMENT

Sh NV Krishnan, A.M

The applicant is a Head Constable in the Union Territory of Lakshadweep Administration. He states that for promotion to the rank of Assistant Sub Inspectors an examination was held in the year 1978 in which he participated. However, the result of that examination has not yet been published. Despite this, the respondent 1-4 have proceeded to grant promotions to the rank of Assistant Sub Inspectors by holding another examination in 1990.

2 The applicant also contends that in the meanwhile, a large number of persons have been given adhoc promotions as Sub Inspector without considering his claim though he is a very senior hand in the cadre of Head Constable. It is stated that by the

Annexure-IV order dated 6.4.90 adhoc promotions to the post of Sub Inspector were granted to the respondents 5 to 9 without considering his claims. Further, by Annexure-V dated 6.4.90, promotions have been ordered to the rank of Assistant Sub Inspectors on the basis of a regular selection by the Departmental Promotion Committee and Respondents 10 and 11 have been regularly promoted.

3 The applicant has impugned the Annexure -IV and V orders. He has, therefore, prayed the following reliefs.

- "(i) To call for the entire proceedings of the Departmental Promotion Committee meetings dated 28.3.1990 and 4.4.1990 and set aside the same.
- (ii) Set aside Order No.F No.1/12/87-Estt(Pol) dated 6.4.90 (Annexure IV and Order No.F No.1/6/78-Estt. (Pol) dated 6.4.1990 (Annexure V) of the third respondent.
- (iii) To direct respondents 1 to 4 to promote the applicant forthwith to any one of the post of Sub Inspector in the Police Department of Lakshadweep Administration.
- (iv) To issue necessary directions to the respondents 1 to 3 to recommend the name of the applicant to the DPC for consideration and further direct the 4th respondent to consider the applicant forthwith for Group 'C' & 'D' post by constituting a review DPC in accordance with law in preference to respondents 6 to 11.
- (v) To issue necessary directions to the respondents to promote the applicant to Group 'D' & 'C' posts forthwith on adhoc basis from an anterior date than the date on which his juniors were given adhoc promotion with all monetary benefits."

4 Respondents 1 to 4 (Department) have filed a reply. No reply has been filed by the contesting private respondents. It is admitted by the Department that the result of the test conducted in 1978 has not been published, but nevertheless, another selection was held in 1979. After that, the next selection to the post of Assistant Sub Inspectors took place only in 1990 and orders at Annexure V have been issued. It is also submitted that the applicant's case for promotion as Assistant Sub Inspector was also considered by the DPC in 1990, but he was found unfit. It is urged in para 15 of the reply that the applicant is medically unsuitable for any promotion in the Department. This averment, it may be noted, has not been rebutted by the applicant.

5 We have perused the records and considered the rival contentions.


6 We are of the view that the matter relating to the non-publication of the result of the 1978 test is a stale matter. If the applicant was aggrieved by this, he should have agitated the matter in 1979 itself when a fresh selection took place. We do not find any force in this argument.


7 The Department has been fair to the applicant in as much as his case was also placed before the DPC for consideration of ^u~~his case~~ for promotion. It is because of his unsuitability that the DPC did not select

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him. Obviously, the applicant is suffering from some medical disability which has rendered him unfit for further promotion.

8 In this view of the matter we find no merit in this application. Hence it is dismissed.


(AV Haridasan)
Judicial Member


(NV Krishnan)
Administrative Member

24.12.91