

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 518/92 ~~XXXXXX~~ ~~XXXX~~

DATE OF DECISION 23.4.92

A.Dhananjaya Vadhyar Applicant (s)

Mr. M. R. Rajendran Nair Advocate for the Applicant (s)

Versus

Chief Commissioner of Income-Tax, Cochin and others Respondent (s)

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

CORAM: for R1&2.

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?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

(Hon'ble Mr.S.P.Mukerji, Vice Chairman)

We have heard the learned counsel for both the parties on this application in which the applicant has challenged the promotion of Respondents 3 and 4 to the grade of Inspector of Income-Tax on the ground that in the feeder grade of Tax Assistant the applicant is admittedly senior to Respondents 3 and 4 and therefore he should not have been superseded by them. Though the applicant concedes that respondents 3 and 4 even though junior to the applicant in the grade of Tax Assistant were promoted as Head Clerks earlier, the learned counsel for the applicant states that the earlier promotion as Head Clerk was because of the fact that in the corresponding feeder grade of UDC the Respondents 3 & 4 were senior to the applicant. The promotion to the grade of

Head Clerk being on the basis of seniority subject to earlier the rejection of unfit, respondents 3 and 4 got/promotion as Head Clerk not on merits but on their seniority in the grade of UDC. Be that as it may, the learned counsel ^{repeatedly} for the applicant ^{vehemently} brought to our notice ^{the fact} the applicant's representation against his supersession for promotion to the grade of Income-Tax Inspector was not properly considered ^{but} and rejected by the impugned order dated 26.3.92 at Annexure.A.VI. The text of this order gives the impression that respondents considered his representation as if the same was against his supersession to the grade of Head Clerk. The learned counsel for the applicant states that the applicant had never contended or sought any relief regarding earlier promotion as Head Clerk. His main contention was his supersession to the grade of Income-Tax Inspector. His claim was primarily based on his seniority in the grade of Tax Assistant over Respondents 3 and 4.

2. We see some force in the argument of the learned counsel for the applicant and in the circumstances we admit this application and dispose of the same at the admission stage itself with the direction to the respondents 1&2 to dispose of his representation dated 5.3.92 (mis-quoted as 3.3.92 at Annexure.VI) by a speaking order with particular reference to the applicant's claim for promotion as Income-Tax Inspector on the basis of his seniority in the grade of Tax Assistant. In the disposal of his representation the respondents 1&2 should not in any manner be influenced by Annexure-VI order. The

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representation should be disposed of on the above lines within a period of one month from the date of communication of this judgment. The applicant will be at liberty to approach the Tribunal if so advised and in accordance with law if he feels aggrieved by the outcome of his representation. There will be no order as to costs.

N. D. Harmadan
23.4.92

(N.D.HARMADAN)
JUDICIAL MEMBER

S.P. Mukerji
23.4.92

(S.P. MUKERJI)
VICE CHAIRMAN

23-04-92

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