

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Application No. OA 583/1986

Joseph S. Sankoorikal : Applicant

Versus

| | | |
|--|---|------------------------|
| 1. Flag Officer Commanding-in-Chief, Headquarters Southern Naval Command, Cochin, and 4 others | : | Respondents |
| 2. P.E. Purushothaman Kartha | : | |
| 3. K.K. Krishnan | : | |
| 4. K.C. Sankaran | : | |
| 5. Smt. P.N. Subhadra | : | |
| Sri M. Girija Vallabhan | : | Counsel for applicant |
| | | |
| Sri P.V. Madhavan Nambiar | : | Counsel for respondent |

ORDER

(Pronounced by Hon'ble Sri G. Sreedharan Nair, Member(J)

The applicant, an Upper Division Clerk in the Naval Aircraft Yard, Naval Base, Cochin has filed this application challenging the promotion to the post of Office Superintendent Grade II and prays for setting aside the panel prepared in that behalf by order dated 25-2-1986. It is urged that the Annual Confidential Reports of U.D. Clerks have not been prepared in accordance with the prescribed rules. It is alleged that the applicant had an excellent grading in his Annual Confidential Reports till 1982 but that in the year 1983 when the Report was written by a junior officer on account of lack of knowledge of the administrative instructions on the subject a proper grading was not given by him

to the applicant. There is also the averment that the DPC was not constituted in accordance with the Recruitment Rules. Another ground urged is that since the first two officers empanelled refused to accept the promotion the DPC should have been directed to meet again to make a fresh selection and the promotion of the candidates empanelled against the quota for scheduled caste and scheduled tribes is illegal.

The first respondent has filed a reply contending that the applicant was not included in the panel as he was found to be of lower merit compared with others who were considered by the DPC. The promotions were effected on a 40-point roster. The scheduled caste and scheduled tribe candidates were considered separately. The Headquarters Southern Naval Command consists of five major industrial establishments and a number of non-industrial establishments. It was with a view to widen the representative nature of the Departmental Promotion Committee that officers from major establishments were included in the Committee. As it has in no way adversely affected the candidates the challenge against the constitution of the Committee cannot be accepted. The reserved points in the roster are intended only to determine the number of reserved vacancies, the promotions are to be carried out from

the panel drawn up according to the instructions issued by the Department of Personnel and Administrative Reforms and the letter from the Naval Headquarters dated 23-3-1974.

It falls to be determined whether the panel for promotion to the post of Office Superintendent Grade II issued on 25-2-1986 is liable to be set aside.


The first ground on which the counsel of the applicant challenged the same was that the non-inclusion of the name of the applicant in the panel cannot be justified as he was all along having a good record of service. By way of answer counsel of the respondent submitted that it was a comparative assessment that was made by the DPC on an objective analysis of the Confidential Reports. Counsel of the respondent made available the Confidential Reports of the applicant as well as the proceedings of the DPC. On going through the same we are not in a position to accept the submission of the counsel of the applicant that the name of the applicant was not included in the panel not on account of justifiable grounds. It is seen that while those who have been included in the general category have been graded as outstanding the grading of the applicant is only as very good. || The second ground ~~here~~ urged by the counsel of the applicant was that according to the Recruitment Rules the Departmental Promotion Committee is to

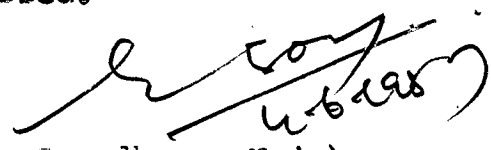
consist of the appointing authority or his nominee - Chairman; the Senior Administrative Officer/Establishment Officer of the establishment concerned, and a civilian gazetted officer/commissioned officer of an unconnected department. It has been specifically contended in the reply of the respondent that the Headquarters Southern Naval Command is comprised of five major industrial establishments and that an officer from each of these establishments has been included in the DPC. From a perusal of the minutes of the DPC it is clear that seven officers constituted the Committee. It was admitted by the counsel of the applicant that the Upper Division Clerks from all the five establishments were being considered by the DPC. As such when the rules enjoin that the Senior Administrative Officer/Establishment Officer of the concerned establishment must be in the Committee it cannot be said that the inclusion of the particular officer from each of these establishments amounts to an illegality in the composition of the Committee. Actually if the particular officer from any one of these establishments ^{was} ~~is~~ not there, perhaps it would have been an irregularity in the constitution of the Committee. At any rate the presence of the particular officer attached to the various establishments under the Command cannot be a ground for invalidating the selection.

The last point that was pressed by the counsel

of the applicant was that when the first two candidates included in the general category did not accept the promotion a fresh DPC should have been constituted instead of giving the promotion to the candidates from Scheduled castes and Scheduled tribes. As regards this point it has been made clear by the respondents that the 40-point roster is maintained only for the purpose of determining the number of vacancies and not to effect promotion based on the reserved points. Reliance has been placed on the letter from the Naval Headquarters dated 23-3-1974 (Annexure R 3) pointing out that promotions are to be carried out from the fused select list irrespective of the point on which the vacancy falls on the 40-point roster. Besides it is admitted by the applicant that in the year 1986 itself there was a subsequent DPC which considered the case of the applicant as well and that pursuant to the recommendation of that DPC the applicant has actually been promoted to the cadre of Office Superintendent Grade II.

It follows that the applicant is not entitled to any relief. The application is dismissed.


(S.P. Mukerji)
Member (Administrative)
4-6-1987


(G. Sreedharan Nair)
Member (Judicial)
4-6-1987

Index : YES / NO