

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 79 199 2

DATE OF DECISION 11.6.93

George Thomas Applicant (s)

Mr. B. Gopakumar Advocate for the Applicant (s)

Versus

Union of India represented by Respondent (s)
Economic and Statistical Adviser, Directorate of
Economics & Statistics Ministry of Agriculture, Tvm & others
Mr. K. Karthikeya Panicker, Advocate for the Respondent (s)
ACGSC

CORAM :

The Hon'ble Mr. **N. DHARMADAN JUDICIAL MEMBER**

The Hon'ble Mr. **R. RANGARJAN ADMINISTRATIVE 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

MR. N. DHARMADAN JUDICIAL MEMBER

Applicant is at present working as Sr. Marketing Intelligence Inspector in the Market Intelligence Unit Directorate of Economics & Statistics, Ministry of Agriculture, Government of India, Trivandrum. He is aggrieved by denial of earlier promotion on the basis of seniority list prepared and published by the Department as per O.M. dated 29.1.92, Annexure A-11.

2. According to the applicant he was initially appointed as Technical Clerk w.e.f. 8.12.59; one Shri Ramakrishnan who is senior to the applicant was appointed in the same cadre w.e.f. 12.3.58. He also submitted that Shri A. Chatterji was appointed as Technical Clerk on 21.1.60.

He is comparing his case with his immediate senior Shri Ramakrishnan and junior Shri Chatterji and submitted that he ought to have been given earlier promotion before the promotion of his junior Shri Chatterji. He produced Annexure A-12 order dated 3.3.72 by which the applicant has been given adhoc promotion as Senior Marketing ^{Intelligence} Inspector in the scale of Rs. 325-574 w.e.f. the date of assumption of charge. He submitted that he took charge in 1972 itself but ^{for want of} ~~due to a~~ ^{vacancy} penalty he was reverted. After completion of the period of ¹ penalty, A further order Annexure A-14 was passed on 6th September, 1975 in which the applicant along with four others was again promoted and posted as Sr. Market Intelligence Inspector (Class-II, Non-Gazetted) in the scale of Rs. 550-900 on adhoc and temporary basis. He assumed charge pursuant to Annexure A-14 order and he is continuing in the post. He further submitted that his immediate ¹ junior Chatterjee has been promoted from 15.3.66. According to applicant he is entitled to be promoted regularly in the aforesaid post from the date of his immediate junior who ^{was} ~~is~~ regularly appointed to the post. He filed repeated representations and all these representations were ¹ rejected without giving satisfactory reasons for denial of ^{earlier} ~~promotion~~ to the applicant. Challenging Annexure A-4, A-6 and A-7 orders the applicant has filed this application under section 19 of the Administrative Tribunals Act mainly for a direction to the respondents to give retrospective promotion to the applicant in the cadre of Sr. Marketing Inspector to which M/s Ramakrishnan and A. Chatterjee were ^{appointed} ~~given~~ on the basis of Annexure A-2 gradation list. He also submitted that Annexure A-11 is the ¹ seniority list of feeder cadre of IES as on 1.10.90. In the list, applicant is at Sl. No. 17, at the same time his junior M. Girijavallabhan is assigned rank No. 101. If the seniority as given in Annexure A-11 is

properly reckoned, the applicant is entitled to promotion before the promotion of Shri M. Girijavallabhan.

3. The application was heard and admitted on 17.1.92. In spite of a number of postings, respondents have not filed any reply. When the applicant came to know that some of his juniors filed O.A. 943/89 before the Principal Bench of CAT, and obtained a judgment in their favour, he filed M.P.1705/92 for amending the application by incorporating additional relief and prayer. This amendment was allowed and accordingly he filed the amended application. Even thereafter, we posted the case for more than half a dozen time, no reply has been filed. On 30.3.93 we peremptorily directed learned counsel for respondents to file reply. Even thereafter two postings were given but no reply has been filed.

4. At the time when the case was taken up for final hearing, we heard learned counsel for respondents also. Learned counsel for respondents submitted that applicant is placing a belated claim and the orders challenged in this case are dated 20.4.87, 5.12.89, 30.6.89 respectively and considering the claim of the applicant based on these orders the claim is belated and the original application is to be dismissed. He further submitted that if the claim of applicant is allowed, settled matters will be reopened.

5. In O.A. 943/89 some of the promotees to the post of Research Investigators grade-I in the same Department who, according to applicant, are juniors to him filed application for getting seniority and consequential benefits. Their case was considered and the Tribunal^h allowed the same with the following observations:

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"In the result, the application is allowed. The impugned order issued by the respondent No. 2 rejecting the representation of the applicants is hereby quashed and the respondents are directed to treat the applicants as having been regularised from the dates on which they continuously officiated in the higher posts of R.I. Grade-I. The applicants shall be entitled to all consequential benefits, monetary or otherwise. The respondents are further directed to comply with our orders within a period of three months from the date of communication of this judgment. "

6. Learned counsel for applicant submitted that the judgment in the aforesaid O.A. ^{Applicant} is applied ^{and the applicant is} he will be entitled to get promotion at an early date. He further submitted that his client is to retire from service early next year and unless some orders are passed following judgment in O.A. 943/89, it will cause injustice to him.

7. We have gone through the records and we are satisfied that in Annexure A-11 seniority list applicant is much above his junior Shri Girijavallabhan who has been regularly promoted to the post of Sr. Marketing Intelligence ^{Inspector} ~~Officer~~ from 17.9.1975. ^{15.3.78} We have also seen that in Annexure A-14 order of promotion dated 6.9.75 indicates that the applicant has been given adhoc and temporary posting as Sr. ^{Market} Intelligence ^{Inspector} ~~Marketing Officer~~ (class-II non-gazetted) w.e.f. the date of assumption and he is continuing in that post without any departmental action. In that view of the matter if the junior has been given earlier promotion, he is also entitled to the same treatment. This is a matter which requires consideration by the second respondent in the light of finding and the observation in Annexure A-15. ^{judgment} 2.

8. Accordingly, having regard to the facts and circumstances of the case, we allow the application and direct second respondent to consider the case of the applicant based on Annexure A-11 seniority list and in the light of observations made in Annexure A-15 judgment. We also make it clear that the applicant will be entitled to all consequential benefits if he is found eligible and suitable for promotion from the date on which he continuously officiated in the promoted post. The aforesaid direction shall be complied by the respondents within a period of four months from the date of receipt of this order.

9. There shall be no order as to costs.


(R. RANGARAJAN)
ADMINISTRATIVE MEMBER


(N. DHARMADAN)
JUDICIAL MEMBER