

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 95 of 1991
~~T. A. No.~~

DATE OF DECISION 23-3-1992

B Ushadevi and another Applicant (s)

Mr MK Damodaran Advocate for the Applicant (s)

Versus

Union of India & Ors. Respondent (s)

Mr K Prabhakaran, ACGSC Advocate for the Respondent (s) 1-4

CORAM : Mr MR Rajendran Nair - Advocate for respondent-6

The Hon'ble Mr. PS HABEEB MOHAMED, ADMINISTRATIVE MEMBER

&

The Hon'ble Mr. AV HARIDASAN, 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? *W*
3. Whether their Lordships wish to see the fair copy of the Judgement? *W*
4. To be circulated to all Benches of the Tribunal? *W*

JUDGEMENT

(Shri AV Haridasan, Judicial Member)

The applicants who are working as Examiners in the Cochin Custom House have filed this application under Section 19 of the Administrative Tribunals Act praying for as many as 10 reliefs. The main grievance highlighted in the application is that while considering the Examiners for the higher post of Appraisers, the respondents did not ~~not~~ prepare an integrated seniority list of Examiners of all the 3 customs Houses as is required under Recruitment Rules. The applicants names were not included in the list for consideration which was not circulated among all the Examiners. Without considering the applicants, the DPC was held and the respondents 6 to 10 were promoted by the impugned order dated 13.9.1990 at Annexure-VII overlooking

the claim of the applicants. In these circumstances, the applicants have filed this application praying that the impugned order of promotion at Annexure-VII may be quashed and that the respondents 1-5 may be directed to prepare an integrated seniority list of Examiners of all the 3 Custom Houses to circulate it among the persons concerned and then only to hold the DPC for the promotion to the post of Appraisers. There are other prayers also.

2. The respondents 1-5 in the reply statement raised a preliminary objection that the application is barred by principles of resjudicata as the identical question arose for active consideration in OA-177/88 on the file of the Madras Bench of the Tribunal. But they have conceded that an integrated seniority list of the Examiners in all the 3 Custom Houses though prepared were not circulated among the Examiners and that the consideration list was prepared and placed before the DPC without giving a chance to all concerned to look into it. When the application came up for final hearing, the learned counsel for the parties submitted that this Tribunal had considered an exactly similar question in OA-1195/90 which was disposed of on 21.2.1992 and that it would be appropriate if this application is also disposed of in the same line. We notice that the order of promotion impugned in this case was impugned in OA-1195/90 also. After hearing all the parties concerned, the Bench observed that there was denial of principles of natural justice in not circulating the integrated seniority list of Examiners among the persons concerned before

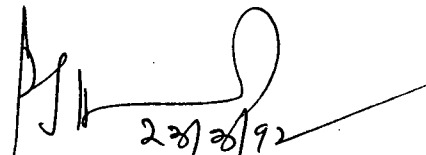
the same was placed before the DPC. On that basis, the Tribunal struck down the integrated seniority list as also the impugned order of promotion. The plea of resjudicata was also not found favour with the Bench. Since exactly identical questions were decided by the Tribunal in OA-1195/90 involving the same order, which is impugned in this case and in the light of the submission of the learned counsel for the parties that this case may also be disposed of in tune with the decision in OA-1195/90, we dispose of this application with the following orders/directions:

The impugned order of promotion at Annexure-VII is quashed and set aside. The respondents 1-5 are directed to prepare a draft integrated seniority list of Examiners and circulate it to all concerned and finalise the same only after hearing objections, if any and thereafter to prepare a consideration list for the DPC based on eligibility and the integrated seniority list. The DPC is to prepare a panel for regular or adhoc promotion on the integrated seniority list and consideration in the above lines.

There is no order as to costs.



(AV HARIDASAN)
JUDICIAL MEMBER



23/3/92

(PS HABEEB MOHAMED)
ADMINISTRATIVE MEMBER

23-3-1992

trs