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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH, LUCKNOW.

T.A.No. 1051/87 (writ Petition No.2404/82)

Raghvir Sahai Nigam ..... Petitioner/Applicant.

Vs.

Union of India & others. ..... Respondents.

Hon'ble Mr. Justice U.C. Srivastiava, V.C.

Hon'ble Mr. K. Obayya, A.M.

(By Hon'ble Mr. K. Obayya, A.M.)

The above writ petition has been received in this tribunal on transfer from the High Court of judicature at Allahabad, Lucknow Bench. Lucknow under section 29 of the Administrative Tribunals Act.

2. The applicant, who was an employee in the Research, Designs and Standard Organisation (R.D.S.O) has moved the above petition challenging certain promotions to Class II Posts. By amendment, he has prayed for a direction to the respondent to declare the petitioner as promoted w.e.f. 28.10.1981, the date from which his juniors were promoted vide order dated 28.10.1981 (Annexure-A to the amended petition) with all consequential benefits.

3. The facts, which are not dispute, are that the applicant entered the service in R.D.S.O in the year 1948 as C.S. Tracer. Thereafter, he received promotions to the posts of Draughtman 'B', Draughtman 'A', Design Assistant 'B', and Design Assistant 'A'. In the year 1967, he was, however, promoted to the post of Senior Design Asstt. (Chief Design Assistant). The next higher post was Assistant Research Engineer in the Mechanical Wing in Class II in the scale of 650-1200. The promotions to the posts of Asstt. Design Engineer and Asstt. Research Engineer

were to be made from a combined list of persons working in the Carriage and Wagon Directorate, Motive Powers Directorate and the Research Mechanical Directorate etc. According to the applicant, a test was last held in 1972. Though a notification for the test was issued in the year 1977 but the test was not held; As the selections were not made, the alternative for the department was to make adhoc promotions and the petitioner, being placed at serial no. 28 in the combined seniority list, was entitled for promotion but he was bypassed in the adhoc-promotions was made in the year, 1981 and also in 1982. He represented to the department pointing out irregularities in denying him adhoc promotion. He has also named certain junior persons who superseded him. As no action was taken and feeling aggrieved by the said adhoc promotions, he moved the aforesaid petition which has come to us for adjudication.

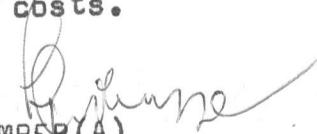
4. The case of the applicant is that he is one among the senior officers eligible for promotion and order of adhoc promotions ignoring him without any justification, was arbitrary and discriminatory.

5. The respondents contested the case. According to them, the regular promotion to Class II, which is a Gazetted post, is subject to qualifying examination. As new rules were to be approved for selection there was no delay in the process and ultimately they decided to go ahead with the selections under the old rules of 1981. The petitioner appeared in the selection test but he failed to qualify in the same, as such he was not promoted. So far as adhoc promotion is concerned, it is pointed out that they could not initially give any adhoc promotions

because of an interim order passed by the High Court in the writ petition restraining such promotions and maintaining the status quo. Later on, after the stay was vacated some adhoc promotions were made. The petitioner was also considered for adhoc promotion but the DPC found him unfit for the same due to which he could not be promoted. However, it would appear that the applicant has retired from service on superannuation on 31.8.1987.

6. We have heard the learned counsel for the parties. So far as the case of regular promotion is concerned, we are of the view that the petitioner has no case since he has failed in the qualifying examination. With regard to adhoc promotions which were made during the year 1981 to 1985, admittedly, some of the juniors to petitioner were promoted but the respondent's contention is that the petitioner was considered for promotion by the DPC but he was not found fit by the DPC for adhoc promotion. The respondents justified the adhoc promotions on the ground that the same were made strictly in accordance with the instruction of the Board. The petitioner was passed on consideration of record and he was not found fit for promotion.

7. In these circumstances we do not find any merit in the application, it is liable to be dismissed, accordingly it is dismissed. No order as to costs.

  
MEMBER(A)

  
VICE-CHAIRMAN

DATED: SEPTEMBER 30<sup>th</sup>, 1992.

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