

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH  
CIRCUIT SITTING AT NAGPUR

(14)

Tr.No.(N)201/87

C.A.Wasnik .. Applicant  
vs.  
Union of India and ors. .. Respondents

Coram: Hon'ble Member(A) Shri P.S. Chaudhuri  
Hon'ble Member(J) Shri D.K. Agrawal

Appearances:

1. Mr.M.N.Ingley  
Advocate for the  
Applicant.
2. Ms.N.R.Sarin  
Advocate for the  
respondents No.1 to 3.

JUDGMENT:  
{Per D.K. Agrawal, Member(J)}

Date: 21-6-1990

Writ Petition No.2997 of 1980

on transfer to the Tribunal under Section 29  
Central  
of the Administrative Tribunals Act was  
registered as Tr.No.(N)201/87.

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2. The prayer in this application  
is that the promotion order of respondents  
No.4 to 10 as Income Tax Officer Class II  
be quashed and <sup>to</sup> direct the respondents No.1 to  
3 to issue promotion order in favour of the  
applicant promoting him as Income Tax Officer  
Class-II by maintaining the seniority in the  
lower grade.

3. The facts are that the applicant  
was appointed as Income Tax Inspector in April,  
1969. He passed the Departmental examination

*D.K. Agrawal*

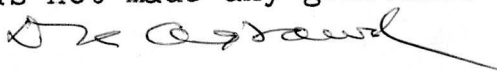
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which made him eligible for consideration ~~to~~  
become eligible for <sup>selection to</sup> Income Tax Officer, Group B.

The selection to the post of Income Tax Officer Group B was considered by a duly constituted Departmental Promotion Committee presided over by the Chairman, Central Board of Direct Taxes, the other Members being a Member of the Central Board of Direct Taxes and Commissioner of Income Tax concerned, in the year 1978, to be precise on 30.10.1978. The applicant was also considered; however, not selected. There was another DPC held in April, 1980. The applicant was not selected therein also. The applicant was selected only by the DPC held in December, 1980. The procedure followed by the DPC is well known. It is like this. The select panel is drawn up by placing the <sup>names</sup> ~~names~~ of outstanding officers first, followed by officers categorised as 'Very Good', and followed by officers categorised as 'Good'. The interse seniority of officers belong to any one category remains the same as their seniority in the lower grade. Since the applicant was not selected by the DPC held on 30-10-1978 and April, 1980, he has to rank junior to the Group 'B' officers already empanelled/selected by the DPC held on the said dates. ~~Thus~~ It is relevant to note that the applicant has not made any grievance that the





select panel was not ranked in accordance with the rules by the DPC which met in December, 1980. The applicants' claim is that the proceedings of the DPC held in October, 1978 and April, 1980 be set aside and that he be assigned the seniority as if he was selected in October, 1978. In other words the applicant is claiming that the proceedings of the Selection Committee held in October, 1978 and April, 1980 be set aside.

4. We have heard the learned counsel for the parties and perused the records. It is a well established principle of law that the Courts are not required to adjudge the relevant merits of the candidate which is the function of the DPC i.e. the Court cannot substitute itself in place of DPC and adjudge the suitability or otherwise of a particular candidate. It is the function of the DPC alone to adjudge the suitability of the eligible candidate and draw a panel. The panel drawn by the DPC can be struck down on certain grounds viz. malice on the part of the members constituting DPC or breach of statutory rules by it or arbitrary or unreasonable decision on the very face of it etc. etc. The Courts in any case do not assume, rather cannot assume, the functions of the DPC.





The application does not contain any pleadings of malice or breach of statutory rules or arbitrary approach in the matter of selection. Consequently we are of the view that this petition is liable to fail on merits.

5. The application is dismissed as being devoid of merits with no order as to costs.

*D.K. Agrawal*  
21.6.90  
(D.K. AGRAWAL)  
Member (A)

*P.S. Chaudhuri*  
(P.S. CHAUDHURI)  
Member (A)