

NEW BOMBAY BENCH

T. A. No.

342/87

198

DATE OF DECISION . 25.4.1991

Shri S.P.Hardas. Petitioner

Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Shri Ramesh Darda. **Advocate for the Respondent(s)**

The Hon'ble Mr. P.S. Chaudhuri, Member(A),

The Hon'ble Mr. T.C.Reddy, Member(J).

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

Yes

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() S. CHAUDHURI)
MEMBER (A).

(18)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
NEW BOMBAY BENCH, NEW BOMBAY,
CAMP AT NAGPUR.

Tr. Application No.342/87.

Shri S.P.Harddas.

... Applicant.

V/s.

Union of India & Ors.

... Respondents.

Coram: Hon'ble Member(A), Shri P.S.Chaudhuri,
Hon'ble Member(J), Shri T.C.Reddy.

Appearances:

None appeared for the applicant.
Respondents by Mr.Ramesh Darda.

JUDGMENT:-

¶Per Shri P.S.Chaudhuri, Member(A)¶ Dated:- 25-4-1991

This Transferred Application has come to the Tribunal by way of transfer from the Bombay High Court in terms of its order dt. 21.10.1986 on Writ Petition No.392/85 which was filed before it on 25.2.1985. In it the applicant (petitioner) who is working on ad hoc basis as Deputy Director/Controller of Communication at Nagpur is challenging the order dt. 4.2.1985 by which Respondents No.3 to 5 are appointed to the grade of Deputy Director/Controller of Communication on regular basis.

2. It is the applicant's case that he joined Civil Aviation Department on 20.2.1958 as Assistant Technical Officer. He was promoted as Technical Officer in 1974 and further promoted as Senior Technical Officer thereafter. It is his further case that in the seniority list of Senior Technical Officers as on 1.5.1982 the applicant was at Sl. No.21 and Respondents 3 to 6 are at Sl. Nos. 23,24,26 and 22 respectively. It is his grievance that respondents 3 to 5 were promoted on regular basis in terms of the impugned order dt.4.2.1985 (supra) and that respondent No.6 was also promoted and posted at Hyderabad. Thus all these respondents who are junior to him were promoted in preference to him. Being aggrieved he filed the present writ petition challenging the impugned order as being

violative of Articles 14 and 16 of the Constitution.

3. The respondents have opposed this Transferred Application by filing their written statement. We have perused the record and have heard Mr. Ramesh Darda, learned counsel for the respondents. Although none appeared before us for the applicant, we ^{are} proceeding to decide this application on merits because the facts are readily available from the pleadings and the record of the DPC made available to us by Mr. Darda.

4. The applicant contends that there are no criteria laid down for the Departmental Promotion Committee to decide the merit of each candidate in comparison with another. As his record and experience are extremely meritorious the DPC should have considered his service record as being better than Respondents 3 to 6. He has also contended that the DPC has acted arbitrarily and without application of mind and that due weightage has not been given to his service in the North-Eastern Region and for his training abroad.

5. Mr. Darda opposed these submissions of the applicant. He submitted that the DPC was required to select officials for the post in question on a yearwise assessment of vacancies. When doing so they were required to examine the record of the officials concerned, grade them and arrange them yearwise on the basis of the grading. In this arrangement, all officials graded as 'outstanding' were required to be placed above all officials graded as 'very good' who, in turn, were required to be placed above all officials graded as 'good'. Within each grading, the officials were required to be arranged in order of seniority. He made available the minutes of the DPC held on 9.11.1984 to show us that

...3.

this is what that committee had done. We have gone through these minutes and are satisfied that the committee had considered the case of the applicant strictly in accordance with the instructions in force, but had not been able to empanel the applicant as he had been graded lower than those who had been empanelled including respondents 3 to 6. It is not for us to substitute our opinion for that of the DPC and so we cannot find any fault with the grading given by them to the applicant and his consequences^{tial} non-inclusion in the panel.

6. In this view of the matter we see no merit in the application. We may also mention that Mr. Darda submitted, for the record, that the applicant has since retired from service on 30.6.1989 when he was holding the post of Chief Inspector, Civil Aviation Training Centre, Allahabad which post is in the same grade as the post involved in the application.

7. We accordingly dismiss the application. In the circumstances of the case there will be no order as to costs.

T. C. Reddy
(T.C.REDDY)
MEMBER (J)

P. S. Chaudhuri
(P.S.CHAUDHURI)
MEMBER (A).