BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
CIRCUIT SITTING AT PANJIM
GOA

Tr.94/87, 96/87 & 97/87.

1. Shri Honorato Rodrigues,
Aval Karkun in the office
of the Deputy Collector's Office,
Sub-Division,
Margao,
Vasco-da-gama,
GOA. .. Applicant in
Tr.Appln.94/87

2. Shri Anthony Nelson Alcasoes,
Aval Karkun,
Mamlatdar's office,
Marmugao,
Vasco-da-gama,
GOA. .. Applicant in
Tr.Appln.96/87

3. Shri C.P.Gaunkar,
Aval Karkun
Mamlatdar's office,
Quepem Taluka,
Dist.South Goa,
PIN : 403 703. .. Applicant in
Tr.Appln.97/87

vs.

1. Union of India,through
Secretary,
Home Affairs,
New Delhi.

2. Administrator of Goa,
Daman and Diu,
Panaji,
Goa.

3. Shri Jagannath S.Pai,
Aval Karkun,
purportedly promoted as
Jt.Mamlatdar,
Salcete.

4. Shri S.D'Costa,
Extension Officer(P),
purportedly promoted as
B.D.O.,Salcete.

5. Shri P.R.Borkar,
Aval Karkun,
purportedly promoted as
B.D.O.,Pardez.

6. Shri V.B.S.Matmo,
Inspector,
Civil Supplies,
purportedly promoted as
Jt.Mamlatdar,
Pardez.

..Contd..2/-

7. Shri I.P.Shetye,
Extension Officer(P),
purportedly promoted as
B.D.O.,Quepem.

8. Shri A.P.Halarnekar,
Aval Karkun,
purportedly promoted as
Jt.Mamlatdar,
Pernem.

9. Shri F.D.Mascarenhas,
Aval Karkun,
purportedly promoted as
Jt.Mamlatdar,Ponda.

10. Shri V.J.Bandodkar,
Aval Karkun,
purportedly promoted as
B.D.O.,Ponda.

11. Shri D.S.Amonkar,
Inspector,
Civil Supplies,
purportedly promoted as
Enquiry Officer,City Survey,
Bardez.

12. Shri P.R.Nagvenkar,
Extension Officer(P)
purportedly promoted as
Enquiry Officer,
City Survey,
Vasco.

.. Respondents in all the above cases.

Coram:Hon'ble Member(J)Shri M.B.Mujumdar

Hon'ble Member(A)Shri P.S.Chaudhuri

Appearances:

1. Mr.S.S.Kantak
(for Mr.M.S.Usgaonkar)
Advocate for the
applicants.

2. Mr.M.I,Sethna
Counsel for
Respondents No.1&2.

ORAL JUDGMENT Date: 14-12-1988
(Per M.B.Mujumdar,Member(J)

By this judgment we are disposing of three Transferred Applications, viz. Tr.Applications No.94/87,96/87 and 97/87. These are Writ Petitions 221/85,219/85 and 220/85 respectively filed in the Goa Bench of the Bombay High Court which are transferred to this Tribunal under Section 29 of the

Administrative Tribunals Act, 1985.

2. The relevant facts for the purpose of this judgment are these: The applicants in all these cases are working as Aval Karkuns. By an order dtd. 14-8-1985, 10 officials were promoted on adhoc basis in the cadre of Mamlatdar/Jt.Mamlatdar and Block Development Officer which are Group'B' Gazetted posts. According to the applicants, in Tr.96/87 and 97/87 all those who were promoted by that order are junior to them while according to the applicant in Tr. 94/87 three Aval Karkuns who were promoted by that order are junior to him. It is the further case of the applicants that rules regarding promotion are not followed by the Departmental Promotion Committee(DPC). Hence after making representations to the higher authorities they filed the Writ Petitions in the High Court of Bombay, Goa Bench challenging their non-promotion. The respondents have filed their separate reply in each case.

3. We have heard Mr.S.S.Kantak (for Mr.M.S.Usgaonkar) learned advocate for the applicants and Mr.M.I.Sethna, Counsel for respondents No.1 & 2.

4. After carefully considering their arguments and the facts of the case we are of the view that the grievance of the applicants is unfounded.

5. In exercise of the powers conferred by the proviso to article 309 of the Constitution, the Administrator of Goa, Daman and Diu had made the rules relating to recruitment to the General Central Service Group'B' Gazetted posts of Mamlatdars, Joint Mamlatdars, Block Development Officers under the Government of Goa, Daman and Diu. The rules are called the Government of Goa, Daman andDiu,Mamlatdars, Joint Mamlatdars

and Block Development Officers Group 'B' Gazetted posts Recruitment Rules, 1984 (briefly, the Recruitment Rules). Rule 3 of the Recruitment Rules lays down that the method of recruitment to the posts of Mamlatdar, Joint Mamlatdar and Block Development Officer, age limit , qualifications and other matters connected thereiwth shall be as specified in Clumns 5 to 13 of the Schedule attached to the Recruitment Rules. According to Column 5 of the Schedule promotion to these posts is by way of Selection. Column 11 lays down that the recruitment by promotion to this post is to be made from (i) Aval Karkuns, (ii)Extension Officers (Village Panchayat), and (iii) Inspectors from the Directorate of Civil Supplies, with 5 years regular service in the respective grade. The other items in the Schedule are not relevant to this case.

6. There are separate rules called them Goa Government (Seniority) Rules, 1967 (briefly, the Seniority Rules) Mr.Kantak, the learned advocate for the applicants heavily relied on Rule 6 of these Seniority Rules. Hence we will quote the entire Rule as it is:-

"Promotees - (i) The relative seniority of persons promoted to the various grades shall be determined in the order of their selection for such promotion.

Provided that where persons promoted initially on a temporary basis are confirmed subsequently in an order different from the order of merit indicated at the time of promotion, seniority shall follow theorder of confirmation and not the original order of merit.

(ii) Where promotions to a grade are made from more than one grade, the eligible persons shall be arranged in seperate lists in the order of their relative seniority, in their respective grades and the selecting authority shall select persons for promotion from each list upto the prescribed percentage, if any, and arrange all the candidates selected from different lists in a consolidated

order of merit which will determine the seniority of the persons on promotion to the higher grade.

Explanation- Where promotions are made on the basis of selection by selecting authority, the seniority of such promotees shall be in the order of merit in which they were recommended for such promtion by the authority. Where promotions are made on the bais of seniority subject to the rejection of the unit, the seniority of persons considered fit for promtion at the same time shall be the same as the relative seniority in the lower grades from which they are promoted. Where, however, a persons is considered as unfit for promotion and is superseded by a junior, such person shall not , if he is subsequently found suitable and promoted, takes seniority in the higher grade over a junior who had superseded him.

Illustration - Where 75% of the vacancies in the grade of Head Clerk are reserved for promotion from the grade of Upper Division Clerk and 25% from the grade of Store-Keepers, the eligible Upper Division Clerks and Store-Keepers shall be arranged in the seperate lists with reference to their relative seniority in these grades. The selecting authority will make selection of three candidates from the list of U.D.Cs and one from the list of Store-Keepers. Thereafter the selected person from each list shall be arranged in a single list in a consolidated order of merit assessed by the selecting authority, which will determine the seniority of the persons on promotion to the higher grade."

7. Mr. Kantak submitted that the feeder cadres for promotion to the posts of Mamlatdar, Jt.Mamlatdar and Block Development Officer were (i) Aval Karkuns,(ii) Extension Officers (village Panchayat) and (iii) Inspectors from the Directorate of Civil Supplies. Relying on sub-rule (ii) of Rule 6 of the Seniority Rules quoted above Mr.Kantak submitted that the selecting authority was bound to select

eligible persons from each list of each grade according to the prescribed percentage. But admittedly in this case the Goa Government has not prescribed any percentage. The use of the word "if any" in sub-rule (ii) of Rule 6 shows that the prescribing of percentage was not mandatory. Mr Kantak drew our attention to the illustration to Rule 6 which also we have quoted above. But that illustration is helpful when a percentage is prescribed by the Government. As no percentage was prescribed in this case the illustration need not be taken into consideration in this case.

8. It may be pointed out here that the impugned order dtd. 14-8-85 was passed on the basis of the recommendations of the Departmental Promotion Committee (briefly, the DPC) which had its meeting on 3-7-1985. The DPC comprised of the Chief Secretary as Chairman and Development Commissioner and Secretary (Revenue) as Members. The proceedings show that the DPC considered 28 candidates from the feeder posts who were eligible as per the provision of the Recruitment Rules. We checked at random to seewhether the candidates were arranged according to the date of appointment in their respective feeder cadres and we found that they were so arranged. The name of the applicant in Tr.94/87(Shri Monorato Rodriques) is at Sr. No.13 in the list of 28 candidates who were considered by the DPC, the name of the applicant in Tr.96/87 (Shri Anthony Nelso Alcasoas) is at Sr.No.7 in that list while the name of the applicant in Tr.97/87 (Shri J.P.Gaunkar) is at Sr.No.4 in that list. The proceedings show that after considering the confidential reports of the 28 candidates the DPC graded them as "Very Good","Good" and "Not yet fit". No candidate wasfound "Outstanding". All the applicants were graded

as 'Good'. However, 11 candidates were graded as 'Very good'. Hence, the seniormost 10 of them were empanelled for being promoted to the post of Mamlatdar, Jt.Mamlatdar and Block Development Officer. As the applicants were graded only as "Good" they could not be empanelled.

9. We have carefully considered the proceedings of the DPC and we do not find any flaw in the proceedings which would require us to set aside its recommendations and the consequential promotion of 10 persons. We also do not find any force in the submission of Mr.Kantak that as no percentage was prescribed regarding the proportions from the feeder cadres the entire proceedings of the DPC and the impugned order of promotion are vitiated.

10. In result we do not find any merit in the application and hence we dismiss it with no order as to costs.'