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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI BENCH  
CIRCUIT SITTINGS AT NAGPUR

~~XXXXXX~~

1990.

T.A.No. 179/87

DATE OF DECISION 10 August 1990

Shri Kaulier Kishor A. Chatterjee ... Petitioner

Shri Y.B. Phadnis ... Advocate for the Petitioner(s)

V/s.

Union of India & Ors. ... Respondent

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

**CORAM :**

The Hon'ble Mr. G. Sreedharan Nair, Vice Chairman

The Hon'ble Mr. I.K. Rasgotra, Member (A)

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?

  
(G. Sreedharan Nair)  
Vice Chairman

(10)

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

Transfer Application No.179/87

Shri Kaulir Kisor A. Chatterjee ... Applicant

vs.

Union of India & Ors. ... Respondents

CORAM : Hon'ble Vice Chairman, Shri G.Sreedharan Nair  
Hon'ble Member (A), Shri I.K.Rasgotra

Appearances:

Shri Y.B.Phadnis, Advocate,  
for the Applicant and Shri  
Ramesh Darda, Advocate, for  
the Respondents.

ORAL JUDGEMENT:

Dated : 10 August 1990

(Per Shri G.Sreedharan Nair, Vice Chairman)

This relates to special civil application No.2086/78  
on the file of the High Court of Bombay received on transfer.

2. At the time of filing of the application the applicant  
was an Assistant Mineral Economist (Intelligence) in the  
Indian Bureau of Mines. His grievance is against the  
promotion granted to the respondents 3 to 5 to the post  
of Deputy Mineral Economist (Intelligence). The promotion  
of the respondents 3 to 5 was made with effect from  
19.9.1978. Subsequent to the filing of the application  
the applicant has also been allowed promotion with effect  
from 15.3.1979. As such he has amended the application and  
prayed to treat him as having been promoted with effect  
from 19.9.78, the date of promotion of the respondents  
3 to 5.

3. At the time of hearing, counsel of the applicant  
did not assail the promotion of the third respondent, but  
the promotion allowed to the respondents 4 & 5, of whom  
the fourth respondent belongs to the Scheduled Caste and

the fifth respondent belongs to the Scheduled Tribe, was challenged by him on the grounds urged in the application.

4. The challenge is mainly on two grounds. Firstly, it is stated that in view of Rule 7 of Chapter III of the Brochure on Reservation for Scheduled Castes and Scheduled Tribes in Services, the reservation orders are not applicable in the instant case, as the post of Deputy Mineral Economist (Intelligence) is a post for conducting research and for organising, guiding and directing research. Secondly, it is contended that earlier in the year 1972 when promotion was made to a vacancy that arose in the post the roster was not followed.

5. Both these grounds are refuted by the respondents 1 & 2, as well as the respondents 4 & 5.

6. Reservation in promotion has been accepted as permissible. As such, advertiring to the first ~~time~~ <sup>ground</sup> of attack what has to be considered is whether the post of Deputy Mineral Economist (Intelligence) is excluded from the purview of the reservation orders in view of Rule 7 referred to above.

7. Rule 7 is in the following terms:

"7. Reservation orders also do not apply in recruitment to a post which satisfies the following two conditions:-

- (1) It should be a post classified as "Scientific or technical" in terms of Cabinet Secretariat (Department of Cabinet Affairs) Office Memorandum No.85/11/CF-61(1), dated 28.12.1961 (Copy in Part III); and
- (2) It must be a post 'for conducting research or for organising, guiding and directing research'."

8. It is evident from the Rule that for ~~this~~ application both the conditions laid down in sub-rule (1) and <sup>in</sup> sub-rule (2) should be satisfied. No material has been placed

before us by the applicant to hold that the post of Deputy Mineral Economist (Intelligence) is a post classified as scientific or technical in terms of the O.M. dated 28.12.1961 issued by the Cabinet Secretariat Office.

9. Though the applicant has alleged that considering the duties attached to the post of Deputy Mineral Economist (Intelligence) it has to be treated as a post for conducting research, the respondents have specifically contended that the post is not for conducting research or for organising, guiding or directing research.

10. ~~Though~~ Counsel of the applicant wanted us to hold that the post is one for conducting research, having regard to the duties attached to the same, ~~we~~ cannot do so, especially when classification of such post is contemplated by sub-rule (1) of Rule 7, so long as no such classification is shown to have been made, we cannot accept the plea of the applicant that the post is scientific or technical post and for the purpose of conducting research or for organising, guiding and directing the same.

11. As regards the second ground urged by the applicant, the respondents have pointed out that at the relevant time the post had to be filled up by the non-selection method of seniority-cum-fitness basis and appointments were made on that basis. Even accepting the plea of the applicant that when the vacancy arose in 1972 it was treated as unreserved, it will not follow that in 1978 when vacancies arose in the post the applicant had to be promoted based on his seniority. At any rate the promotion of the respondents 4 & 5 at that time cannot be assailed on that ground.

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12. It follows that both the grounds urged by the applicants are devoid of merit.

13. Accordingly, the application is dismissed.

*Delhi* 10/8/90  
( I.K. Rasgotra )  
Member (A)

*10/8/90*  
( G. Sreedharan Nair )  
Vice Chairman