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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 198
T.A. No. 343 of 1987

8.8.90
DATE OF DECISION

Vinod Kumar Sangal Petitioner

Mr V.G.Palshikar, Advocate for the Petitioner(s)

Versus
Union of India and others
Respondent

Mr 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?

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW BAY BENCH
NAGPUR.

TR(N) 343/87.

Vinod Kumar Sangal ... Applicant.
versus
Union of India and others ... Respondents.

P R E S E N T :

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

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

For the applicant- Mr V.G.Palshikar, Advocate

For the respondents- Mr Ramesh Darda, Advocate.

Date of hearing - 6.8.90

Date of Judgment & Order - 8.8.90.

JUDGMENT & ORDER :

G.SREEDHARAN NAIR, VICE CHAIRMAN :

This relates to Writ Petition No.395 of 1985
in the High Court of Bombay, received on transfer.

2. The grievance of the applicant relates to the denial of promotion to the post of Senior Technical Assistant in the Central Region Office, Geological Survey of India. It is alleged that while working as Junior Technical Assistant, he was duly recommended by the Departmental Promotion Committee (D.P.C.) for appointment on promotion to the post of Senior Technical Assistant and, accordingly, in November, 1978, he was promoted and posted to the North-Eastern Region, Shillong Circle. The case of the applicant is that due to domestic difficulty as he was unable to leave Nagpur City, he requested for a posting at Central Region, Nagpur, but no action was taken thereon, and treating the case as one of refusal of promotion, the applicant was allowed to continue at Nagpur.

3. In August, 1980, the applicant was granted adhoc promotion to the post of Senior Technical Assistant, and from September, 1980, the applicant has been functioning as such.

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4. It is alleged by the applicant that according to the rule, on refusal of promotion, the applicant was liable to be offered the vacancy that arose next. It is alleged that after 1978, the DPC met only in the year 1985, but it did not consider the case of the applicant. It is stated that the respondents 4 to 9 who are junior have been recommended and have been promoted and as a consequence on 18.2.1985 order has been passed reverting the applicant to the post of ~~Junior~~ Junior Technical Assistant. According to the applicant, the reversion is illegal and unwarranted. It is alleged that the post that became available in August, 1980 was a regular post, and since the applicant had been duly selected by the DPC in 1978 itself, he cannot be reverted from that post, and he was entitled to be appointed on regular basis.

5. The applicant prays to quash the proceedings of the DPC that met in 1985 and for a direction to the respondents to appoint him as Senior Technical Assistant with effect from 1980.

6. In the reply filed by the respondents 1 to 4, it is stated that the offer of appointment to the applicant to the post of Senior Technical Assistant at the North-Eastern Region was made on 13.12.1978 and it was kept open till 22.2.80, on which date the offer was cancelled, and the vacancy was filled up by appointing his junior. It is stated that as the Geological Survey of India was considering the question of reorganising the Department and as the allocation of the posts falling under various categories in the different Regions was under process, promotions were held up in the meanwhile. It is contended that the next DPC that met in 1985, considered the case of the applicant as well, but did not recommend his case. Hence it is pleaded that it is not open to the applicant to challenge the order of reversion.

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7. It is not disputed that appointment to the post of Senior Technical Assistant is by selection from the Junior Technical Assistants, based on the recommendations of the DPC. In the year 1978, the case of the applicant was considered by the DPC and was recommended, pursuant to ~~xxxx~~ which in December, 1978, offer of appointment was given to the applicant. Though the offer was kept open till February, 1980, the applicant did not choose to accept the same, and the post was filled up by appointment of his junior.

8. After 1978, since steps were being taken for reorganisation of the Geological Survey of India and of the allocation of the posts in various Regions, it is seen that promotions were not being regularly made and the meetings of the DPC were also not being held. It was only in the year 1985 that the DPC met again for selection for appointment to the post of Senior Technical Assistant. In the meanwhile, the applicant was offered promotion on adhoc basis by the Memorandum dated 19.8.80, and on acceptance of the same from September, 1980, the applicant was allowed to work against the post of Senior Technical Assistant.

9. The DPC that met in the year 1985 considered the case of the applicant as well, but did not ~~xxxx~~ recommend him for promotion. The respondents 4 to 9 who are juniors to the applicants were recommended. Though there is a prayer in the application for quashing the proceedings of the DPC, no valid ground has been urged in the application. Nor was the counsel of the applicant able to establish any ground for allowing the relief. What was stated was that, according to the Rules, the DPC has to meet every year. The fact that the Committee did not meet during the period 1979-84 is no ground for quashing the proceedings of the DPC that met in the year 1985.

Secondly, it was urged by the counsel of the applicant that considering the seniority of the applicant in the cadre of Junior Technical Assistant and the fact that the applicant was working against the post of Senior Technical Assistant on adhoc basis, he should have been considered by the DPC, and since it was not done, the proceedings of the Committee are vitiated. The respondents have very clearly asserted in the reply to the application that the case of the applicant was actually considered by the DPC, but was not recommended. This is evident from paragraphs 3 and 11 of the reply. At the time of hearing, it was submitted by the counsel of the respondents 1 to 3 that the subsequent DPCs held on 6.2.87 and 4.2.88 also considered the case of the applicant, but was not recommended.

10. The next ground urged in the application that the respondents 4 to 9 who have been recommended are all junior to the applicant in the cadre of Junior Technical Assistant cannot be countenanced as the selection is based on the assessment of the comparative merits of the candidates, and is not based on seniority.

11. It follows that the prayer of the applicant for quashing the proceedings of the Selection Committee that met in the year 1985 cannot be allowed. As such, it is not open to the applicant to assail the order dated 18.2.1985 under which the respondents 4 to 9 have been promoted to the cadre of Senior Technical Assistant. The Office Order dated 18.2.1985 reverting the applicant to his substantive post of Junior Technical Assistant had to be issued consequent upon regular promotion of the respondents 4 to 9, and hence the applicant cannot question the same.

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12. The application is dismissed.

Dulayi
(I.K.Rasgotra)
Member(A) 878/90

8-8-90
(G.Sreedharan Nair)
Vice Chairman.

S.P.Singh/
7.8.90.