

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: --- 199
T.A. NO: (N)252/87

DATE OF DECISION 12-3-1992

Dinkar Hukmatrao Bokade Petitioner

Mr.M.M.Sudame Advocate for the Petitioners

Versus
Union of India and others Respondent

Mr.S.K.Sanyal Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice U.C.Srivastava, Vice-Chairman

The Hon'ble Mr. M.Y.Priolkar, 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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(U.C.SRIVASTAVA)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
 BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR

Tr.No.(N)252/87

Dinkar Hukmatrao Bokade,
 Panchpaoli, Nagpur,
 Tahsil and Dist.Nagpur,
 Post Office:Gandhibagh(R.A.) .. Applicant

vs.

1. Union of India
2. General Manager,
 South Eastern Railway,
 Garden Reach,
 Calcutta.
3. Chief Personnel Officer,
 South Eastern Railway,
 Garden Reach,
 Calcutta.
4. Deputy Chief Electrical
 Engineer,
 South Eastern Railway,
 Garden Reach,
 Calcutta.
5. Deleted
6. Shri Khemdeo Limaye
 Ex-Senior Divisional
 Engineer,
 'Milind'
 Near Somalwada Primary School,
 Somalwada,Nagpur.
7. A.Vinayak,
 Junior Office Superintendent.
8. Senior Divisional
 Electrical Engineer,
 South Eastern Railway,
 Nagpur Division,
 Nagpur.
9. Divisional Personnel Officer,
 South Eastern Railway,
 Nagpur. .. Respondents

Coram: Hon'ble Shri Justice U.C.Srivastava,
 Vice-Chairman.

Hon'ble Shri M.Y.Priolkar, Member(A)

Appearances:

1. Mr.M.M.Sudame
 Advocate for the
 Applicant.
2. Mr.S.K.Sanyal
 Counsel for the
 Respondents.

ORAL JUDGMENT: Date: 12-3-1992
(Per U.C.Srivastava, Vice-Chairman)

The applicant was appointed as a Clerk after passing the competitive examination conducted by the Railway Service Commission in the year 1955. After passing the departmental examination he was appointed as Senior Clerk in the year 1962. On 8-1-1965 a memorandum was issued to hold examination on 10-1-1965 to select certain number of candidates to fill in certain number of vacancies of Head Clerk. The applicant being the seniormost clerk also wanted to appear for the same but he was not given an opportunity to appear in the said examination which according to the applicant was malafide and in order to favour one Mudaliar. The applicant challenged the same by filing the writ petition before the High Court and ultimately the applicant's application was allowed but he was declared unsuccessful in the examination ~~for~~ which he appeared which according to him was deliberately done. He was declared successful in the fresh test on 5-2-1981 and was promoted as Junior Office Superintendent and this promotion was made effective from 1-6-1979. According to the applicant although his record is very excellent yet he has not been promoted to the ~~next~~ higher post though he is a member of Scheduled Tribe and in view of the circular issued he was entitled to certain privileges in the matter of promotion. But even that privileges was denied. For the post of Senior Office Superintendent which is non selection post the applicant was fully eligible but the respondents did not promote him and promoted the persons who were junior to him. According

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to the applicant it appears that in the year 1980-81 and 1981-82 there was certain confidential reports against him that he was unfit for further promotion but these entries were not communicated to him and he was not given any opportunity to have his say against the same. It appears that the said entries were taken into account and that is why he was not promoted and passed over in preference to juniors. Feeling aggrieved by the same the applicant approached this Tribunal on the ground that he was fit for promotion and by virtue of circular issued by the Govt. of India the applicant was entitled to be promoted as a member of Scheduled Tribe.

2. The respondents have resisted the claim of the applicant and have pleaded that in the suitability test the members of ST are entitled for filling up general post and they were entitled to give more marks. But so far as the suitability is concerned the suitability is judged from the entire record and the applicant's suitability was not judged better than of those who were appointed that is why he was not appointed or promoted. A reference to the confidential report has also been made but the same has not been disclosed except saying that the same can be produced if the Court so desired.

3. Learned counsel for the applicant contended that the adverse entries like 'unfit' should have been communicated to the applicant and representation against the same should have been made by the applicant.

4. So far as the remarks 'not fit' is concerned it is in the nature of general assessment and it cannot be said as adverse remark. The same is the result of the assessment made by the authority concerned and communication of the same is not required. A person's suitability can be adjudged from the overall assessment and in this case applicant's overall assessment has been judged and he has not been found better than others who were promoted. Subsequently he was considered for promotional post this ~~exemption~~ and we have been informed that he has been promoted thereafter he has earned one more promotion. The grievance of the applicant is that in case he would have been promoted when his juniors were promoted he might have earned more promotions and that would have given him more pensionary benefits. But as the judging of suitability involves some sort of selection and that has been judged by the authority concerned and no allegation against the authority who judged the suitability has been made it is not possible for the Tribunal that too to at this stage to sit in judgment over the same. Accordingly this application has got to be dismissed which is dismissed accordingly. There will be ~~xxxxxx~~ no order as to costs.



(M.Y.PRIOLKAR)
Member(A)



(U.C.SRIVASTAVA)
Vice-Chairman