

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

Camp at Nagpur

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O.A. NO:

199

T.A. NO:

302/87

DATE OF DECISION 14.11.1991

Shri M.S.Khot

Petitioner

Shri J.P.Hardas

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

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 ? *Yes*
2. To be referred to the Reporter or not ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *No*

mbm*

(Signature)
(M.Y.PRIOLKAR)
MEMBER (A).

(8)

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

Tr. Application No.302/87.

Shri M.S.khot.

... Applicant.

V/s.

Union of India & Ors.

... Respondents.

Coram: Hon'ble Shri Justice U.C.Srivastava, Vice-Chairman,
Hon'ble Shri M.Y.Priolkar, Member (A).

Appearances:-

Applicant by Shri J.P.Hardas.

Oral Judgment:-

(Per Shri M.Y.Priolkar, Member (A))

Dated: 14.11.1991.

The grievance of the applicant who is an Income Tax Inspector is that although he had passed the qualifying examination for the post of Income Tax Officer Class II his juniors who have passed this examination much later than him have been promoted as Income Tax Officer Class II in preference to him. His contention is that since these promotions are on the basis of seniority-cum-merit, the candidates who have passed this examination earlier should have been promoted earlier than the candidates who have passed that examination subsequently and some weightage should have also been given in assessing his merits vis-a-vis the other candidates, for the high percentage of marks secured by him in that examination.

2. Admittedly, there are three criteria for the selection for the post of Income Tax Officer Class II. First is that the candidate should have minimum three years service as Income Tax Inspector; second, he should have passed the qualifying examination and, thirdly, he should be within the zone of consideration i.e. within three times the number of vacancies.

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3. According to the applicant, he had passed the departmental examination in the year 1976 and there was one vacancy in that year which was caused on account of retirement of one Mr. Deo and he should therefore, have been considered by the DPC in that year for promotion. But no DPC meeting was held in that year with the result that the applicant's name was not considered in that year. But according to the respondents, Mr. D.M. Deo was not a Class II Officer and, therefore, his retirement has not created any vacancy in which the applicant could be accommodated in 1976.

4. Admittedly, there are no specific rules or instructions that candidates who have passed the examination for the post of Income Tax Officer Class II earlier should be preferred for promotion to that post as against the candidates who have passed that examination subsequently. The respondents have averred that the selections have been conducted strictly in accordance with the rules. In some years, the applicant although he satisfied both the criteria of service and had also passed the qualifying examination, could not come within the zone of consideration since the number of three times the vacancy was filled up by candidates who were all senior to him. In the years when he had come within the zone of consideration and was accordingly considered by the DPC, he was not graded "outstanding" and the posts were filled up by candidates who were senior to him and who were also graded fit for promotion. The respondents have stated that no junior to the applicant has so far been promoted in preference to the applicant. The respondents have also said that the selection is on the basis of seniority-cum-merit and how the merit is to be assessed is left to the



DPC which comprises of one Member of Central Board of Direct Taxes and two Commissioners of Income Tax. We do not find any merit in the argument of the learned counsel for the applicant, that due weightage should be given in assessing the merit of the candidates who have passed the examination earlier in point of time vis-a-vis those who have passed the examination much later and also for the marks obtained by the candidates in the examination. Admittedly, there are no such rules or instructions in the department. It will also be unfair to the candidates if, when the rules are silent, some such weightage is given to the candidates, without making it known in advance. Evidently, the candidates knowing that this is only a qualifying examination and there is no further weightage given to the marks obtained would normally prepare themselves only for the purpose of obtaining minimum qualifying marks. Had it been a competitive examination and if the promotions were to be decided on the rank or percentage of marks secured in the examination, they would have prepared themselves more thoroughly. As long as there are no specific rules, no weightage is required to be given for the marks obtained in the examination. The applicant should, therefore, have no justifiable grievance in this regard. We see no merit in this application. It is, therefore, dismissed with no order as to costs.


(M.Y. PRIOLKAR)
MEMBER (A)


(U.C. SRIVASTAVA)
VICE-CHAIRMAN.