

(10)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH  
CAMP AT NAGPUR  
-----

O.A. NO: 199

T.A. NO: 313/87

DATE OF DECISION 9.3.1992

Manohar S. Waghmare Petitioner

Mr. S.D. Malke Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Mr. Ramesh Darda Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice U.C. Srivastava, V/C

The Hon'ble Mr. M.Y. Priolkar, M(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 ?

mbm\*

( U.C. Srivastava )  
V/C

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

\* \* \* \* \*

Tr. A. No.313/87

Manohar S.Waghmare

... Applicant

V/s

Union of India & Ors.

... Respondents

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

Appearances:

Mr. S.D.Malke, Advocate  
for the applicant and  
Mr. Ramesh Darda, Counsel  
for the respondents.

ORAL JUDGMENT:

Dated : 9.3.1992

(Per. U.C.Srivastava, Vice-Chairman)


In this application the applicant has prayed that a mandamus be issued directing Respondents not to promote respondent No.3 to the post of Assistant Mining Engineer and in case he is promoted then his promotion may be quashed and the applicant may be promoted in his place or at least he may be considered for the said post as a reason of roster point No.28. Learned counsel for the respondents informed us that although the applicant has claimed this limited relief but the applicant has been promoted to even the higher post. He has been promoted to the post of Assistant Mining Engineer to which he is claiming by means of this application on 21st July 1988 and he was thereafter promoted on 29th July 1988 to the post of Assistant Mining Engineer (Class-I) and vide the order dated 30th November 1989 he has been promoted as Assistant Controller of Mines and in this view this application has become infructuous. Any how as the learned counsel for the applicant contends that if he would have been promoted earlier to the lower


post ~~xxx~~ he would have been promoted to post of Deputy Controller of Mines by this time. We have heard him. The applicant's plea is that although he is a member of Scheduled Caste and as such was appointed as Senior Technical Assistant (Mining) in the year 1984 on the recommendations of the Departmental Promotion Committee and was confirmed in the year 1984, in the seniority list his name is at Sl.No.7 and if the roster point would have been taken into consideration for promoting him in pursuance of the Home Ministry's Office Memorandum No.1/11/69-Est/SCT dated 22nd April, 1970, the applicant would have been promoted. But the applicant has not been promoted and in fact the respondent No. 3 who is shown at serial No.3 of the roster point is a non-scheduled caste or non-scheduled tribe candidate and has wrongly been promoted. The respondents have challenged the contention raised by the applicant and have pointed out that promotion to the post of Assistant Mining Engineer is by way of selection from the post of Senior Technical Assistant and the procedure prescribed is that which was prescribed by the Ministry of Home Affairs vide its memorandum dated 11th July, 1968 on the subject of reservation of Scheduled Caste and Scheduled Tribe for the posts filled by them and wherein it has been pointed out/<sup>that</sup> If promotions are made by selection, employees in the zone of consideration numbering 5 or 6 times the estimated number of vacancies are to be considered and if within the zone of consideration and if within the zone of consideration there are Scheduled Castes and Scheduled Tribes employees those amongst them who are considered unfit for promotion will be excluded and thereafter the remaining will be given one grading higher than the grading otherwise assignable to them. In case he was 'Good' then of course his grading would have been 'Very Good' and 'Very Good' grading would have been 'Outstanding'

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and this is how the benefit was given to the members of the Scheduled Caste and Scheduled Tribe communities and no percentage was reserved for SC/ST under the Government order which continued to remain in force till the Govt. order of 1974 was issued. On 20.7.1974 the Department of Personnel and Administrative Reforms issued an O.M. on the subject of reservation of Scheduled Caste and Scheduled Tribe communities which provides that there will be reservation at 15% and 7½% of the vacancies for Scheduled Castes and Scheduled Tribes in promotion made by selection from Class-III to Class II and lowest rung of category in Class-I in grades of service if it does not exceed 50% consideration is given according to roster points under the said Government order. In the roster of the Assistant Mining Engineer by the promotion of the Respondent No.3, 20 points are covered and point No.21 was available in the case for General Category and point No.22 was for Scheduled Caste. When the next point in the roster of Scheduled Caste is to be filled in for the post of Assistant Mining Engineer, the applicant being the seniormost amongst the Scheduled Caste candidates would stand a good chance for promotion to the post of Assistant Mining Engineer. Thus the respondents have rightly pointed out that the roster was required to be maintained with effect from 24.9.1970. As a matter of fact foundation was laid down and certain directions were given. But in fact it was laid down specifically and was made obligatory vide the order dated 20.7.1974, a reference to which has been made earlier and a copy of which has been placed on the record. The respondents have again pointed out that against two posts 8 candidates were considered by the Departmental Promotion Committee and the applicant was also considered. The respondent No.3 was at serial No.15 of the seniority list and he was found as a better candidate and that is why he was selected. The other candidate selected was one Shri D.B.Bhimraju who was a member of Scheduled Tribe. It has

been rightly pointed out that the applicant had no chance of being promoted because two points of the roster which will be covered by the general category and the applicant being a person belonging to the Scheduled Caste would not have been promoted as Assistant Mining Engineer against two points in the roster which was marked for General Category. Thus, we do not find any merit in the contention which was raised by the applicant who in the meantime has got two more promotions. The selection which has been made obviously cannot be said to be in accordance with any order or direction. The application deserves to be dismissed and accordingly dismissed with no order as to costs.

  
( M.Y. Priolkar )  
Member(A)

  
( U.C. Srivastava )  
Vice-Chairman

v/-