

(12)  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A. NO: 199  
T.A. NO: 361/87

DATE OF DECISION 19.11.1991

Shri Sahadeo Shivaji Raut. Petitioner

Shri V.S.Yawalkar Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Smt. Indira Bedade. 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 ? *Y*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *N*
4. Whether it needs to be circulated to other Benches of the Tribunal ? *N*

mbm\*

*h*  
(U.C.SRIVASTAVA)  
VICE-CHAIRMAN.

(3)

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

Tr. Application No.361/87.

Shri Sahadeo Shivaji Raut. .... Applicant.

V/s.

Union of India & Ors. .... Respondents.

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

Appearances:

Applicant by Shri V.S.Yawalkar.  
Respondents by Smt.Indira Bodade.

Oral Judgment:-

Dated: 19.11.1991

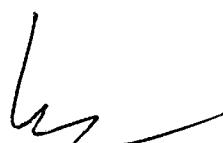
(Per Shri Justice U.C.Srivastava, Vice-Chairman)

The applicant who is a member of Scheduled Tribe feeling aggrieved from the promotion of the Respondent No.4 who is also a member of Scheduled Tribe and was admittedly junior to him in the service hierarchy has approached this Tribunal for setting aside the promotion to the post of Chief Clerk by order dt. 16.5.1983 and has also prayed for issue of mandamus for granting him promotion w.e.f. that date. Initially, he filed a Writ Petition before the High Court which has been transferred to this Tribunal. There is no dispute between the parties that the applicant was senior to Respondent No.4. The question of ad hoc appointment to the post of Head Clerk arose in the year 1983. But as some disciplinary proceedings were going against the applicant he was not promoted and promotion was given to Respondent No.4. In the disciplinary proceedings it appears that a minor penalty was awarded to the applicant. That even prior to this a written test for the post of Chief Clerk took place on 4.7.1982 in which the applicant did not qualify. Again a supplementary test took place on 20.2.84 in which the applicant absented himself, but the

Respondent No.4 appeared and got through and that is why he was promoted. Yet another test took place in the year 1989 for the post of Chief Clerk, the applicant was called for the same, but he could not qualify in it. As the applicant failed to qualify or absented himself that is why he was not promoted and ~~not~~ no complaint can be raised against his non-promotion or promotion of Respondent No.4, it is turned down. On this behalf it has been contended that merely because a disciplinary proceedings was pending against him and it was visited by a minor penalty, thereafter the applicant could have been promoted with retrospective effect. If the promotion would have been given to him at that stage, the applicant could have been retained his seniority and would have earned promotion. The said promotion was only an ad hoc promotion. The applicant got yet another opportunity to appear in the supplementary test in which he absented himself. As such he cannot raise his voice against the ad hoc promotion of R-4 and claim that he should be regularly promoted or he may be promoted with retrospective effect on ad hoc basis. There is no merit in the application. The application is dismissed. No order as to costs.

  
M.Y. PRIOLKAR

MEMBER(A)

  
U.C. SRIVASTAVA

VICE-CHAIRMAN.

B.S.M.