

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

O.A. No. 755/87 198
 T.A. No.

26.9.1991
 DATE OF DECISION

Shri M.T.Jawahrani.

Petitioner

Shri M.A.Mahalle.

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Shri A.I.Bhatkar.

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice U.C.SRIVASTAVA, VICE-CHAIRMAN,

The Hon'ble Mr. A.B.GORTHI, 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? ✓

MGIPRRND-12 CAT/86-3-12-86-15,000

(U.C.SRIVASTAVA)
 VICE-CHAIRMAN.

TA 31/92

DATED: 19.8.93

Applicant present in person.

Mr. P M Pradhan, counsel for
respondents.

PART HEARD.

LIST FOR HEARING ON ~~20.8.93~~
20.8.93.

(USHA SAVARA) (M. S DESHPANDE)
M(A) V.C.

OA. 886/92

19-8-93

MR. Masand, counsel for applicant. Mr. P M Pradhan, counsel
for respondent.

PART HEARD.

List for hearing on 20.8.93.

(90)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY.

Original Application No.755/87.

Shri M.T.Jawahrani.

... 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 Mr.M.A.Mahalle.
Respondents by Mr.A.I.Bhatkar.

Oral Judgment:-

(Per Shri Justice U.C.Srivastava, Vice-Chairman) Dt. 26.9.1991.

Feeling aggrieved from the non-promotion to the post of Assistant Commissioner of Income-tax, now designated as Deputy Commissioner of Income-tax, the applicant ^{was} ~~was~~ in the Income-tax department as Inspector in the year 1959 and was promoted as Income-tax Officer Group 'B' in 1974 and Group I in 1978 against which post he was regularised has approached this Tribunal, praying for relief against the non-promotion and that he should be promoted.

2. The grievance of the applicant is that the applicant has come forward with an allegation that he along with others were transferred to Madhya Pradesh and he filed a writ petition against the same which annoyed the department and the applicant later on came to Bombay was working as Assistant Commissioner under the Commissioner of Income-tax Shri S.P.Krishnamoorthy. But there was a change in the posting of Commissioner and in place of Shri Krishnamoorthy one Shri O.P.Bhardwaj was posted as Commissioner Income-tax. The applicant did not even work for 4 months, but he wrote the Confidential Report of the applicant without consulting his predecessor Shri S.P.Krishnamoorthy under whom the applicant worked and this colourless C.R. was written by him against the departmental instructions in the matter or preparation of C.R.

In case he would have consulted his senior under whom the applicant had worked, obviously good entries would have been given to the applicant, but it appears that good entries were not given and though the same ^{were} ~~was~~ ^{they were not} adverse, ~~or~~ rated high that is why he was passed over.

3. The respondents in their counter affidavit have stated that the case of the applicant was considered by the DPC and others were assessed and graded as 'Outstanding' 'Very Good' and the applicant was graded as good and therefore not included in the list for promotion. The Board consisted of Member of U.P.S.C. as Chairman, Chairman of Central Board of Direct Taxes and Member of Central Board as Members and it was after considering the relative merit they categorised and the applicant was graded 'good' and not 'very good' and 'outstanding' and that is why he could not be promoted and even if juniors have been promoted, the promotions have been done because of the grading. The learned counsel for the applicant contended that the selection was to be based on seniority-cum-merit and in this connection a reference may be made to the case of P.L.Khandelwal v. Union of India & Ors. (OA 248/89) and in that case also it has been observed that it is a selection on the basis of seniority-cum-merit, weightage should be given to seniority. The same position is arising in this case that the DPC after evaluation found the applicant was graded as 'good' and not 'outstanding' and 'Very good' and those who were 'outstanding' and 'very good' were selected exceeded the number of posts and that is why the applicant was not promoted. Even if there was a colourless C.R. or even there was some technical flaw in filling up these posts by considering ACRs that will not be a ground for setting aside the evaluation made by the DPC consisting of expert persons. We do not find any ground to interfere in this case and accordingly the application is dismissed. No order as to costs.

transcript
(A.B.GORTHI)
MEMBER (A)

B.S.M.

U.C.SRIVASTAVA
VICE-CHAIRMAN.