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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. NO: 725/87

199

~~T.A. NO:~~

DATE OF DECISION 8.7.92

Shri V. Kodhanda Pani Petitioner

Applicant in person. Advocate for the Petitioners

Versus

The Director General, Deptt.
of Telecom, New Delhi Respondent

General Manager, MTNL, Bombay

Shri A.I. Bhatkar Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice S.K. Dhaon, Vice Chairman.

The Hon'ble ~~Mr.~~ Ms. Usha Savara, 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 ?

U. Savara
(USHA SAVARA) 8.7.92
MEMBER(A)

mbm*

(X)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 725/87

Shri V. Kodhanda Pani

.... Applicant.

V/s.

The Director General
Department of Telecommunications
Sanchar Bhawan, New Delhi - 110001.

General Manager
Mahanagar Telephone Nigam Ltd.,
Telephone Bhavan
Colaba, Bombay - 400005.

CORAM: Hon'ble Shri Justice S.K. Dhaon, Vice Chairman
Hon'ble Ms. Usha Savara, Member (A)

Appearance:

Applicant in person.

Shri A.I. Bhatkar for
Mr. M.I. Sethna for the
respondents.

JUDGEMENT:

Dated: 8.7.92.

¶ Per Ms. Usha Savara, Member (A) ¶

The applicant, who is working as Junior Accounts Officer in the department of Telecommunications has assailed the order dated 25.2.'87 by which the Director General, Department of Telecommunications, New Delhi had promoted Junior Accounts Officer to the grade of Accounts Officer in the P & T Accounts ~~and~~ and Finance wing Group 'B' (Anx. 1). By this order, several J.A.O.'s junior to the applicant in the JAO's gradation list ~~had~~ been promoted as A.O.'s, whereas the applicant who was senior and had a better claim to promotion, has been overlooked. It is the applicant's case that Shri Mohd. Sharif is far junior to him, and was not in the zone of consideration, but he has been selected

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as the D.P.C. did not limit the number of candidates to be considered to the prescribed ratio.

As per recruitment rules for promotion to the grade of A.O's, select list is to be finalised 50% on the basis of selection and 50% on seniority-cum-fitness subject to the selection of unfit. The applicant was at serial No. 223, whereas Shri Mohd. Shariff was at Sr. No. 279, according to the gradation list. The zone of consideration is restricted to three times the number of candidates to be selected on merit. Even if there were 46 vacancies for 1986, and 70 for 1987, then number to be selected on merit would be 23 and 35 only. The total number of candidates who fall within the zone of consideration will be 69 and 105 only. If the D.P.C. had followed the above orders, Mohd Sharif could never have been included in the zone of consideration either for 1986 or 1987 vacancies. On the other hand, the applicant, who is far more senior to Mohd. Sharif, has not been empanelled for want of vacancies, according to the reply given by the Ministry of Communications by letter dated 25.8.'87 (Anx III) in response to the representation filed by the applicant. Since the action of the respondents is arbitrary, they should be directed to set aside the D.P.C. proceedings and to nullify the promotion orders. The department should also be directed to include his name in the select list above the names of Mohd. Sharif, Shri S.Chidambaran, P. Narayananurthy & M. Seetharama Swamy and grant him promotion from the date Mohd. Sharif and others were promoted. The applicant be also given all the benefits attached to the post by way of seniority, salary,

leave encashment etc. It is also prayed that the General Manager, M.T.N.L. be directed not to act on the select list and finally, if any of the applicant's juniors are allowed local officiating promotion in the grade of A.O., then the applicant also be allowed the benefits attached to the post of A.O.

Shri Bhatkar, learned counsel for the respondents relied upon the written submissions filed by him. He confirmed that vacancies for the post of A.O. are to be filled from the feeder cadre of the J.A.O's. 50% of the vacancies are to be filled in by selection on merit, and 50% are filled in by promotion on the basis of seniority. There were 150 vacancies to be filled up - 75 posts earmarked for being filled up on the basis of selection were filled up by candidates, who were marked " Outstanding" and " Very Good". The applicant was placed as " Good" and therefore, he was not selected. On the ^{other} hand, Mohd. Sharif was considered to be " Outstanding" therefore he went above the applicant. However, his actual serial No. in the gradation list was 174 and not 279, as claimed by the applicant. Shri Bhatkar produced the minutes of the D.P.C. meeting in which C.Rs of 225 eligible candidates who were in the zone of consideration (besides the CRs of 28 SC/ST candidates). The D.P.C. gave its assessment of these officials on the basis of which promotions took place. The applicant, who was placed at Sr.No. 121 was only given " Good", whereas Mohd. Sharif, who was at Sr. No. 174 was given " Outstanding", whereas the other three officials, who were selected were given " very good"- He pointed out that there was no irregularity in the procedure followed by the D.P.C. and therefore, the applicant's prayer to set aside its selection and nullify its promotion orders should be rejected.

The learned counsel proceeded to prove that not only the applicant could not have been selected on merit, but that he was not within the zone of consideration for promotion on seniority-cum-fitness basis. The department had already conveyed this to the applicant by letter dated 25.8.'87. Therefore, the application deserves to be dismissed as being without merit.

We have heard the applicant as well as the learned counsel for the respondents, we have perused the annexures as well as the minutes of the D.P.C. proceedings. The facts are undisputed. The applicant is aggrieved by the order of promotion by which several of his juniors have superceded him. Though, they are mentioned by name, but they have not been impleaded as respondents. From a perusal of the D.P.C. proceedings, it is evident that the applicant was considered for promotion, but was not good enough to be selected, and the juniors, who were graded as " very good" and " outstanding" were selected on merit. Therefore he can have no grievance on this score. In so far as promotion on seniority-cum-fitness is concerned the applicant, being at sr.No. 121 in the gradation list he does not fall within the zone of consideration. Out of the 75 posts available, 28 posts were reserved for SC/ST. For 47 vacancies, the last person to be promoted was at serial No.82, so the applicant was much beyond the zone of consideration.

In the circumstances, the application has to be dismissed as being devoid of any merit with no order as to costs.

Usha Savara
8.7.82.
(USHA SAVARA)
MEMBER (A)

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(S.K. DHAON)
VICE CHAIRMAN