

(10)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 420/88

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DATE OF DECISION 14.12.1990.

Shri C.S. Jain Petitioner

Shri A.P. Furtad Advocate for the Petitioner(s)

Versus

State of Goa & Another Respondent

Shri G.U. Bhebe Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. N. SENGUPTA, MEMBER (J)

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*



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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH.
CIRCUIT SITTING AT PANAJI.

O.A. 420/88.

Shri C.S. Jain,
House No.1120, Housing Board Colony,
Pernerim, Alto Betim,
GOA.

.. Applicant.

V/s.

1. State of Goa, through
The Chief Secretary to
the Govt. of Goa,
Secretariat,
Panaji, Goa.
2. Shri P.S. Khandeparkar,
Superintending Engineer,
Circle III.ID, Feterda,
Margao, Goa. .. Respondents.

Coram : Hon'ble Member(J) Shri N. Sengupta.
Hon'ble Member(A) Shri M.Y. Priolkar.

Appearances:

Shri A.P. Furtado,
Advocate for the Applicant.

Shri G.U. Bhave, Advocate
for the Respondents.

JUDGMENT
By Per Shri M.Y. Priolkar, Member(J) I

Date : 14.12.1990.

The applicant in this case had the grievance, when he filed this application on 25.6.1988, that although according to him, he was the only person eligible under the relevant recruitment rules for appointment to the post of Superintending Engineer in the Irrigation Department and a vacancy was available from 7.1.1988, he was not promoted to that post whereas Respondent No.2 who was junior to him was promoted on adhoc basis as Superintending Engineer by order dated 5.5.1988. Subsequently, by order dated 2.8.1989, the applicant was promoted on adhoc basis to the post of Superintending Engineer. Today, the learned Counsel for the applicant showed us a copy of the order dtd. 26.10.1990 by which the applicant is promoted as a Superintending Engineer in Irrigation Department on regular basis.

"against the 1988 vacancy with effect from 8.10.1990".

2. The grievance of the applicant which is still subsisting is that his promotion as Superintending Engineer should be made effective from 7.1.1988, that is, the date since when three vacant posts were available but only two promotions were ordered, or atleast from 5.5.1988, that is, the date when his junior, Respondent No.2, was so promoted.

3. It was stated on behalf of the applicant that he had already submitted a representation to Government for antedating his promotion and the Government's reply is still awaited. A copy of that representation is, however, not on record. The learned Counsel for the Respondent Government stated that the date from which the applicant's promotion on regular basis has been ordered, namely, 8.10.1990 is the date on which the Goa Public Service Commission has approved this appointment and that consultation with the Goa Public Service Commission will be necessary for antedating his promotion. In the circumstances, we think that the interest of justice will be met if the applicant submits a fresh representation to Government giving the reasons for his prayer for retrospective promotion which could be decided by Government on merits of the case, in consultation with the Goa Public Service Commission, if necessary.

4. Accordingly, we direct that the applicant should, within one month from today, submit a fresh representation to Respondent No.1 giving full justification for his claim for antedating his promotion and, within four months from the date of receipt of such representation, Respondent No.1 should take a final decision thereon, in consultation with the Goa Public Service Commission, if necessary. Detailed reasons will have to be given in case Government rejects the representation. Needless to say, if the applicant is still aggrieved with the Government's

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decision, he will be at liberty to approach this Tribunal again in accordance with law.

5. With the above direction, this application is disposed of finally, with no order as to costs.

M.Y. Priolkar
(M.Y. PRIOLKAR)

MEMBER(A).

Nes Sengupta
(N. SENGUPTA)

MEMBER(J).