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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~XXXXXXXXXX~~
~~XXXXXXXXXX~~ BOMBAY BENCH

O.A. No. 791/88

198

~~XXXXXXXXXX~~

DATE OF DECISION 14.10.1991

Kikubhai D. Patel

Petitioner

Mr. D.V. Gangal

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Mr. A.S. Rao

Advocate for the Respondent(s)


CORAM :

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

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? ✓
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)
V/C

(13)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

* * * * *

Original Application No.791/88

Kikubhai Dajibhai Patel,
C/o. P.W.D. Irrigation Division,
Dadra & Nagar Haveli,
Silvassa 396 230.

... Applicant

V/s

1. Union of India, through the
Secretary, Ministry of Home Affairs,
New Delhi.
2. The Administrator,
Dadra & Nagar Haveli,
Raj Bhavan,
Panaji, Goa 403 001.
3. The Collector,
Dadra & Nagar Haveli,
Silvassa 396 230.
4. Shri J.R.Mahyawanshi,
Land Reforms Officer,
Dadra & Nagar Haveli,
Silvassa 396 230.

... Respondents

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

Appearances:

Mr. D.V.Gangal, Advocate
for the Applicant and
Mr. A.S. Rao, Advocate
for the respondents.

ORAL JUDGEMENT:

Dated : 14.10.1991

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

The applicant who was working as Senior Accountant in P.W.D. in the year 1984 was not promoted to the post of Group-B Officer although he was the senior most person in the feeder cadre fulfilling all the eligible criteria and in his place Respondent No.4, Mr. J.R. Mahyawanshi though according to the applicant was not fulfilling the eligible criteria and also having adverse entries in his confidential report was promoted. The applicant had retired during the pendency of this application. The applicant undoubtedly was senior to the said Mahyawanshi. In the year 1986 the applicant for the time being it appears he was dealing with

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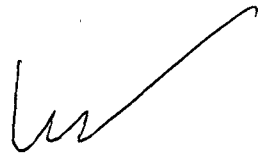
the forest account was sent to the P.W.D. which was a new place for him and it appears that an adverse remark was given to the applicant to the effect that he requires more knowledge in PWD accounts although he was prompt in accounts bills but quite slow in replying audit paras of A.G. and regarding fitness of promotion it was said not yet fit. The DPC met in the year 1987 and it gave preference to Respondent No.4, Mr. Mahyawanshi who was earlier rejected in the year 1984 as there was adverse remarks against him. It appears that subsequently he obtained good remarks and that is why he was preferred over that of the applicant. The applicant admittedly did not file any representation against the remarks according to him it was of not any use as the officer concerned who wrongly given the adverse remark was still in the office. The applicant preferred a representation in the year 1988. A representation of 1988 could not have helped in respect of the matter for which the DPC met much earlier. It may be that the applicant's record was very good and one entry stood in his way but the applicant is responsible for the same in as much as that he did not file a representation against the same at the appropriate stage. IN case a representation was filed something could have been contended on his behalf. The learned counsel for the applicant contended that a perusal of the DPC proceedings shows that the applicant's record is better than the Respondent No.4 who it appears got an additional point in view of the fact that he was a member of the scheduled caste community. It may be so but one adverse entry it was sufficient for the DPC not to promote the applicant. It may be that the DPC could have taken other opinion and even if other opinion is possible but we cannot sit in judgement over the assessment ~~is~~ made by the DPC merely because instead

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of restricting balance in favour of the applicant
restricted the balance in favour of the Respondent No.4
and accordingly we do not find ^{that} any case for interference
has been made out or any benefit to the applicant with
retrospective or directing the respondents to call a
review LPC and reconsider the matter can be issued and
accordingly the application has got to be dismissed and
it is dismissed. No order as to costs.



(M.Y. Priolkar)
Member (A)



(U.C. Srivastava)
Vice-Chairman

v/-