

~~T.A.~~ NO:

27.8.1991

Petitioner

Advocate for the Petitioners

Union of India & Anr.

Respondent

Advocate for the Respondent(s)

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 ?
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.C. SRIVASTAVA)
VICE-CHAIRMAN.

mbm*

(21)

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

Original Application No.376/86.

Shri Rajkumar Sharma.

... Applicant.

V/s.

Union of India & Anr.

... Respondents.

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

Appearances:-

Applicant by Shri G.R.Sharma.

None for the respondents.

Oral Judgment:-

(Per Shri Justice U.C.Srivastava, Vice-Chairman) Dt. 27.8.1991.

The applicant an Officer in the Indian Police Service was initially recruited to DANI Police Service on the basis of examination held in the year 1970 w.e.f. 31.3.1972 and his year of allotment was determined as 1966 by the Ministry of Home Affairs. He has approached the Tribunal praying that the selections made in 1978 and 1979 by the appointment to Delhi and Andaman, Nicobar Police Officers (for short, DANI) cadre by the selection committee superseding the applicant be set ~~xxx~~ aside and the Respondent No.1 may be directed to relate the selection and appointment to the cadre of Indian Police Service of the applicant back to the year 1978 when his junior-s were so appointed and to allow him all consequential benefits of seniority, promotions and arrears of salary.

2. That the applicant has come forward with an assertion supported by documents that he had a brilliant service throughout and he earned various awards and certificates for his good service. But vide order dt. 14th June, 1977 he was placed

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under suspension on the ground that he was involved in one Sundarrajan's murder case. A criminal case in respect of the same also started against him in which he was acquitted whereupon he was reinstated on the 8th February, 1980. The period of suspension was treated to be on duty and ~~his~~ arrears of salary for the said period were also paid to him. In the mean time it appears that in the year 1978 and 1979 the Selection Committee which met according to the applicant did not consider the case of the applicant with the result that his juniors are promoted but was not promoted. Ultimately, the case of the applicant was considered by the DPC in the year 1980 after his reinstatement and he was promoted in the higher cadre. According to the applicant under Regulation 5 of the IPS (APPOINTMENT by PROMOTION) Regulation 1955 the applicant was to be graded as 'Outstanding' or 'very good' in view of his service record. But it is because of the Sundarrajan's murder case or because of the suspension he appears to have been graded at a lower level with the result he was not selected by the respondents.

3. The respondents have pleaded that the Officer who came in the select list prepared in the year 1978 was appointed in the service on 29.4.1980 in view of the fact that there was no vacancy available then and merely because the selection is made it could not mean that immediately after the selection the person has to be promoted even if no vacancy exists. The averments made by the applicant to the effect that he was eligible for absorption in 1978 have not been admitted, it has been stated that he was given benefit of doubt in that criminal case which arose as a result of performance of his official duty. In the year 1978 according to the respondents on the maximum only 6 officers could have been included in the list and the selection committee assessed the officers who were in the zone of consideration and recommended inclusion of 6 Officers, who were

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graded 'very good'. The applicant was graded 'good' and therefore on account of low grading he could not be included in the select list and so was the case in the year 1979 in which he was assessed as 'not yet fit'. In the year 1980 when vacancy arose he was promoted. The ACR's have not been produced before us, but on the facts indicated above it is clear that it is because of the pendency of the criminal case and the applicant was under suspension order, he was earlier rated to be 'good' and in the year 1979 he was rated to be 'not yet fit'. So far as 'not yet fit' is concerned it was not the case of grading but ^{he} it was considered not fit obviously because of the pendency of the ^{to} case which fact was before the DPC ~~which~~ when it met earlier. Even if the applicant was given the benefit of doubt the department accepted that ~~it~~ to be a case of acquittal, the suspension order was recalled and he was paid full salary for the period. Obviously, the remark 'not yet fit' only is relatable to the criminal case of Murder of Mr. Soundararajan who according to the applicant was a Dacoit. If the case would not have been there, there was no occasion for the DPC to say that he was 'not yet fit'. Accordingly, the applicant's case requires reconsideration and respondents are directed to call a review DPC within a period of three months from the date of communication of this order for considering the case of the applicant. In case the review DPC comes to the conclusion that in the year 1978 or 1979 the applicant was fit for promotion and would have come within the zone of promotion which ~~by the DPC earlier met~~ ^{thereafter} his promotion would date back from the year he was ^{entitled} to be in case he was found to be fit in that particular year viz. 1979 or 1980. With these observations the application stands allowed. However, there will be no order as to costs.



(M.Y. PRIOLKAR)
MEMBER (A)



(U.C. SRIVASTAVA)
VICE-CHAIRMAN.