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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: **945/89**

Transfer Application No:

28.6.1994
DATE OF DECISION:

Shri B.M.Gavali

Petitioner

Shri S. Madurkar

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Sh. S.S.Karkera for Sh. P.M. Pradhan

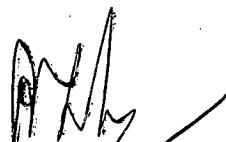
Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice M.S.Deshpande, Vice Chairman

The Hon'ble Shri P.P.Srivastava, Member (A)

1. To be referred to the Reporter or not ? *NO*
2. Whether it needs to be circulated to other Benches of the Tribunal ? *NO*



(P.P.SRIVASTAVA)
MEMBER (A)


(M.S.DESHPANDE)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

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OA.NO. 945/89

Shri B.M.Gavali

... Applicant

V/S.

Union of India & Ors.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande
Hon'ble Member (A) Shri P.P.Srivastava

Appearance

Shri S.Madurkar
Advocate
for the Applicant

Shri S.S.Karkera
for Shri P.M.Pradhan
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 28.6.1994

(PER: M.S.Deshpande, Vice Chairman)

The applicant who was working as a Telegraph Assistant and after completing 16 years of service was found eligible on 30.11.1983 for ~~one~~ time bound promotion in accordance with the instructions issued in the letter of the Director-General of Posts & Telegraphs on 17.12.1983 in which a DPC was to ^{be} constituted for finding persons eligible for promotion to the next higher scale of pay. The applicant and others who appeared were found eligible by the DPC which was convened on 22.2.1984. Later, however, the department discovered that the constitution of the Departmental Promotion Committee which had held the applicant and others eligible for one time bound promotion was not proper because under the letter dated 12.4.1977 the DPC should have been constituted by Director of Telegraphs, (2) A.G.M. (Staff) and (3) APC Postal Circle. The DPC which was convened in 1984 comprised of one Class I officer and two Group 'B' Officers. Nonetheless the appointing authority who had power to grant the one time bound promotion appointed

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the applicant on the recommendation of the DPC. Later, after the mistake ~~was discovered~~ in the constitution of the DPC came to light an order was passed on 16.1.1989 by which the applicant was not approved for promotion. The applicant's grievance is that having officiated in pursuance of the appointing authority's order from 24.7.1984, the applicant could not have been reverted on 16.1.1989 after a period of 5 years and a few months. The learned counsel for the respondents urged that the respondents were justified in correcting the mistake by constituting a regular DPC and ~~du~~ considering the cases of those who were granted one time bound promotion, It is difficult to agree with this submission. If the mistake ^{were} ~~was~~ detected immediately and corrected, possibly there would have been some justification. However, the respondents were aware of the instructions which were issued on 12.4.1987 and should have taken care to see that a proper DPC should be appointed. The respondents ~~can~~ ^{should} not say this after a lapse of 5 years that the earlier DPC had not properly constituted so the promotions were irregular. It is true that the respondents have ^a right to correct their mistake if the appointment itself is vitiated. In the case before us, there is no dispute that the appointing authority had the power to grant the one time bound promotion. The question is only about the irregularity of the committee which should have been recommended the candidates for promotion. That is not an irregularity which the applicant should now be ^{made to} suffered to stand after a lapse of 5 years. We find that the ^{in the constitution} reverting ^{of} the applicant was bad in view of the delay involved and we, therefore, set aside and quash the order dated 16.1.1989 qua the applicant and direct ^{that} the applicant be deemed to be continuing in the post of Section Supervisor (Operative) in scale, Rs.425-640 with effect from 30.11.1983 granted to him under Order dated 24.2.1984. All the pecuniary benefits which

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will accrue to the applicant on the basis of this order shall be calculated and paid to the applicant within a period of three months from the date of communication of this order.



(P.P.SRIVASTAVA)

MEMBER (A)



(M.S.DESHPANDE)

VICE CHAIRMAN

mrj.