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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~XXXXXXXXXX~~
BOMBAY BENCH

O.A. Nos. 645/89 & 646/89 198
~~XXXXXXXXXX~~

DATE OF DECISION 10.10.1991

V. K. Gaur & R. V. Jadhav Petitioner

Mr. C. U. Singh Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Mr. V. G. Rege 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? *ye*
2. To be referred to the Reporter or not? *ye*
3. Whether their Lordships wish to see the fair copy of the Judgement? *N*
4. Whether it needs to be circulated to other Benches of the Tribunal? *U*

MGIPRRND-12 CAT/86-3-12-86-15,000

U
(U.C. Srivastava)
V/C

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

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Original Application Nos. 645/89 & 646/89

1. V.K. Gaur,
Junior Supervisor,
Super-Simultan Section (Ist),
Currency Note Press,
Nasik Road,
Maharashtra 422 101. ... Applicant
(OA 645/89)
2. Ravindra Vithal Jadhav,
Junior Supervisor,
Off Set Sec (Tech),
C.N.P., Jail Road,
Nasik Road 422 101. ... Applicant
(OA 646/89)

V/s

1. Union of India, through the
Secretary, Ministry of Finance,
(Department of Economic Affairs),
New Delhi.
2. The General Manager,
India Security Press /C.N.P.,
Nasik Road, Nasik.
3. Shri M.Chandran (Supervisor),
P.G.(Process), I.S.P.,
Nasik Road 422 101.
4. Shri A.K.Chatterjee,
Safety Office, CM.P.,
Jail Road, Nasik Road 422 101.
5. Shri M.P.Bain,
Supervisor, P.G.(Process),
I.S.P., Nasik Road 422 101.
6. Shri M.S.Mangat,
Supervisor, Bindery Sc.,
I.S.P., Nasik Road 422 101.
7. Shri C.S.Chandrasekharan,
(Supervisor), I.S.P.(Tech),
Nasik Road 422 101.
8. Shri Parth Bose,
Supervisor, Offset Sec.,
C.N.P., Nasik Road 422 101.
9. Shri J.L.Pandit, Supervisor,
E.T.P.Sec., C.N.P.,
Nasik Road 422 101. ... Respondents

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

Appearances:

Mr. C.U. Singh, Advocate
for the applicants and
Mr. V.G.Rege, Advocate
for the respondents.

ORAL JUDGEMENT:

Dated : 10.10.1991

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

As common question arises in these two cases the same are being disposed of together except that in O.A. 645/89, V.K.Gaur's case one additional point has been taken that uncommunicated adverse remarks were taken into account by the so-called DPC which did not meet to decide the question of promotion without taking the explanation of the applicant or without waiting for his representation against the same. The applicants were Junior Supervisors in the Currency Note Press, an organisation of the Government of India. The applicants grievance is that they were unlawfully passed over for promotion to the post of Supervisors while their juniors in the Grade of Junior Supervisors have been promoted on regular basis as Supervisors. As the cadre of Supervisor is borne on the combined technical cadre of the India Security Press and the Currency Note Press but the Respondent No.3 and No.8 were promoted who were junior to the applicants and thereby have been superseded. It is not necessary to refer to all the other details but certain vacancy arose in the promotional grade of Supervisor during the year 1987 but no DPC was convened in that year and prior to that DPC met only in the year 1985. In the year 1988 though a total of 14 regular vacancies had accumulated for the year 1987 but no DPC met to make selection from amongst the Junior Supervisors eligible for promotion to the post of Supervisors and as a matter of fact an irregular procedure of circulating confidential reports of various Junior Supervisors to the members of the DPC was adopted. Not only the constitution of the DPC and the manner in which the

selection has been made but the accumulation of vacancies and without making selection yearwise on the basis of the records of eligible candidates of that year has been challenged. Obviously selection is to be made yearwise as has been provided under the O.M. dated 30 December 1976 issued by the Department of Personnel & Administrative Reforms which is on the record. The main contention of the learned counsel for the applicant is that there was no meeting of the DPC and there is no rule to this effect that the DPC can also take the decision in the matter of promotion by circulation and the procedure which has been so adopted is in violation of O.M. referred to above. Learned counsel made reference to the case of Union of India & Ors. vs. Somasundaram Viswanath & Ors., AIR 1988 SC 2255 which was in a different context regarding coram but the validity of the said O.M. was upheld in that case. He also made reference to the case of State of Andhra Pradesh Vs. Mohanjit Singh, 1988 SCC (L&S) 906 where also the question of validity of similar O.M. and other O.M. was considered which also on a different context but the O.M. which is on the record itself stipulates that the members of the DPC are to meet and deliberate and thereafter they have to take a decision. Para VII of the said O.M. reads as under :-

"The proceedings of the Departmental Promotion Committee shall be legally valid and can be operated upon notwithstanding the absence of any of its members other than the Chairman provided that the member was duly invited but he absented himself for one reason or the other and there was no deliberate attempt to exclude him from the deliberation of the DPC and provided further that majority of the members constituting the Departmental Provision Committee are present in the meeting."

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There cannot be any deliberations of the DPC unless all the members meet together or the remaining members assemble, without their assembly there cannot be any meeting. Admittedly no such meeting ever took place in this case. Even otherwise in the absence of any rule that the DPC in this manner can also decide the matter by circulation but the procedures of circulation is not permitted by law. The decision on such matters by circulation will not be the decision by the meeting of the DPC and accordingly it can be said that no decision whatsoever was taken by the DPC and the so called recommendations made by the DPC were no recommendations at all. On the basis of the said decision the promotion orders so made are not valid and accordingly promotion orders dated 2.11.88 and 10.12.1988 are quashed. It is being made clear that so long as the DPC, the meeting of which is to take place as early as possible takes place other respondents who have already been promoted will not be demoted or will not be shifted from their present place of posting. So far as other pleas are concerned that the uncommunicated adverse entry is not be taken into account there appears to be no reason why the DPC in this behalf will not proceed in accordance with law. With these observations the applications are allowed. It is expected that the DPC will meet within a period of three months. There will be no order as to costs.



(M.Y. Priolkar)
Member (A)



(U.C. Srivastava)
Vice-Chairman