

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE TWENTIETH DAY OF NOVEMBER 1986

Present : Hon'ble Shri Justice K.S. Puttaswamy .. Vice-Chairman

Hon'ble Shri L.H.A. Rego .. Member (A)

APPLICATION NOs.897 TO 906/86

A.S.Subbrama Jois,
Garrison Engineer (South),
Bangalore-42.

S.M. Linganna,
Garrison Engineer (South),
Bangalore-42.

K.J. Unni,
Garrison Engineer,
Air Force, Bangalore-6.

K.C. Kuncharia,
C/o Garrison Engineer,
Jalahalli, Bangalore-6.

V. Raman,
C/o Garrison Engr. (South),
No.2, Ulsoor Road,
Bangalore-42.

W. Vasudeva Murthy,
Garrison Engineer (P) R&D,
No.2, Ulsoor Road,
Bangalore-42.

V. Munikrishnaiah,
C/o Garrison Engineer (North)
T.64, Meenaa Lines,
MEG & Centre, Bangalore-42.

K. Balachandran
C/o Garrison Engr.
Air Force, Bangalore-42.

L.R. Hegde,
C/o Garrison Engr.
Air Force, Bangalore-6.

K.S. Anantharamu,
C/o Garrison Engineer (I),
No.2, Ulsoor Road,
Bangalore-42.

... Applicants

(Shri S. Ranganatha Jois ... Advocate)

V.

The Union of India represented
by its Secretary,
Ministry of Defence,
'Raksha Bhavan',
New Delhi-11.

The Engineer-in-Chief,
Army Hqs,
New Delhi-1.

K. Parthasarathi,

N.V. George,

V.K. Ramakrishnan,

Madusudan Ananth Paranjape,
Rajendrakumar Bhatnagar,
Narendra Kumar Kohli,
Vinay Kumar,
H.A. Sridhar
B.Ravindranath,
Chandraprakasha Chowdari,
Shyalkumar Mukhyopadhyaya,
Prabodh Kumar Bhargava,
Sureshchandra Gangawar,
R.G. Ashtikar,
Pushparaj Khohli,
Mangeram,
Ranjit Kumar Bhattacharya
V. Suryanarayana Murthy,
Puranprakash Singh Midha,
Gopalkrishna Pillai
Veerendrakumar Bhtia,
Sunilchandrapatra,
Subosechandra Sirkar,
Pinjushkanti Majumdar,
Ahindrarajan Sirkar
K.V. A marnath Rao,
N.M. Tanlakari,
Tulsiram,
Umashankar Prasad,
Lakshman Singh
Buddaraju Sannasi
Jagdishchander,
Ajit Kumar Chakrabarty,
Mohanlal Bahri,
Piaresingh,
Sarveshwar Saran,
Ramswarup
Nath Sukhrindar Singh

Satya Paul Suggi,
A nil Kumar Surkar,
Balgit Singh Dunia,
Balakrishna Gupta,
Ranjit KumarRaj,
Harmindar Kumar Makan,
Shriharan Sarma,
Yogeshchander,
Amargit Singh,
Surendran K,
Burisingh,
Jaggit Singh Lanbu

... Respondents

(Respondents 3 to 52 are
all working as Superintendents,
E.M.Gr.II/Garrison Engineers,
C/o the second respondent, New Delhi)

(Shri M.S. Padmarajaiah .. Advocate)

This application has come up for hearing before this Tribunal
today, Hon'ble Vice-Chairman made the following:

O R D E R

In these transferred applications received from the High Court of
Karnataka under Section 29 of the Administrative Tribunals Act (The Act)
the applicants have challenged the empanelment of respondents 3 to 52
for appointment to the posts of Superintendents EM Gr.I by the
Engineer-in-Chief, Army HQ, New Delhi (E-in-C).on 26.9.1980(Annexure B).

2. The applicants, respondents 3 to 52 and several others were working
as Superintendents EM Gr.II in the Military Engineers Services of the
Government of India (MES). The recruitment to the posts of Supdts. EM
Gr. I is governed by Military Engineers Service Non-Industrial Class III
and Class IV posts Recruitment Rules 1970 (Rules) under which they are
'selection posts'.

3. In the year 1980, there were 130 posts of Supdts. EM Gr.I and for .


making selections to those posts a Departmental Promotion Committee (DPC) consisting of two senior officers of the Department and one senior officer of another Department was constituted by the appropriate authority. The DPC considered the cases of the applicants, respondents 3 to 52 and others and prepared a select list of persons suitable for promotion to the posts. The DPC rated 20 persons as 'outstanding', 47 as 'very good' and the rest as 'good'. On that rating, the DPC prepared a select list of 130 candidates providing for reservations to members of SC/ST and the same has been published on 26.9.1980 by the E-in-C. In that select list, the applicants graded as 'good' have not been promoted as their seniority did not permit their promotion under that grading. Hence these applications.

4. The applicants have urged that many of their juniors had been illegally graded as 'outstanding' or as 'very good' and that was violative of Articles 14 and 16 of the Constitution.

5. In justification of the selection made by the DPC, respondents 1 and 2 have filed their statement of objection before the High Court of Karnataka and produced the relevant records also today.

6. Shri S. Ranganath Jois, learned counsel for the applicants contends that in grading juniors as 'outstanding' or as 'very good', the DPC had violated the rules of recruitment and standing orders or guidelines and Articles 14 and 16 of the Constitution. In support of his contention Shri Jois strongly relies on the ruling of the Supreme Court in AIR 1974 SC 87 = 1974 Supreme Court Cases L&S 5.

7. Shri M.S. Padmarajaiah learned senior standing counsel appearing for respondents 1 and 2, contends that the evaluation made by the DPC was in conformity with the rules, the guidelines and Articles 14 and 16 of the Constitution and the same cannot be examined by this Tribunal as if it is a court of appeal and a different conclusion reached. In




support of his contention Shri Padmarajaiah strongly relies on para 19 on page 154 - Chapter IV of The Law of Civil Service by H. Eliot Kaplan.

8. We have noticed earlier that the posts are selection posts. In making selections to such posts, merit would be the pre-dominant criteria. When the merit of two persons is equal in all respects then their seniority in the lower cadre tilts the balance in favour of the senior and not otherwise.

9. We have carefully perused the proceedings of the DPC held from 1st to 19th September 1980. The DPC on an examination of the Confidential Rolls and all other relevant records, had graded 20 as 'outstanding', 47 as 'very good' and the rest as 'good'. The DPC had graded the applicants as 'good'.

10. We are of the view that the gradings made by the DPC and their acceptance by the E-in-C are in conformity with the Rules, guidelines and Articles 14 and 16 of the Constitution. We are of the view that Kapur's case does not preclude DPCs to rate officials as 'outstanding' 'very good' or 'good'. Shri Jois does not quarrel with this. But his real quarrel is that the DPC should have given reasons for such gradings and that was the ratio of Kapur's case. We are of the view that is not the ratio in Kapur's case. A DPC giving reasons for its gradings is desirable. But the failure to give reasons however desirable that may be, does not necessarily invalidate the gradings made by a DPC on an evaluation of CRs and other records.

11. In Gurnam Singh V. State of Rajasthan 1971 SLR 799 the Supreme Court had ruled that merit can be evaluated on the basis of Confidential Rolls and other records. On the very principles enunciated by the Supreme Court in Kapur and Gurnam Singhs' cases, it was open to the DPC to grade officers as 'outstanding', 'very good' and 'good' and make promotions on that basis.



12. Among the officials rated as 'good', the DPC had promoted persons strictly in the order of their seniority which is in order and legal (vide Vijayadevaraj Urs V. G.V. Rao 1982 2 All India Law Journal 399).

13. On any view, the non-selection of the applicants for the year 1980 and the selection of others graded as 'outstanding', 'very good' or 'good' on the basis of their seniority does not justify our interference under the Act.

14. In the light of our above observations we hold that these applications are liable to be dismissed. We, therefore, dismiss these applications. But in the circumstances of the cases we direct the parties to bear their own costs.

Ne. Prasad
20/1/80
VICE CHAIRMAN

[Signature]
MEMBER (A) 20.01.80

bsv