

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH : BANGALORE..

Present: Hon'ble Shri Ch.Ramakrishna Rao, Member (J)

and

Hon'ble Shri P. Srinivasan, Member (A).

DATED THIS THE THIRTIETH DAY OF OCTOBER, 1986.

APPLICATION No. 1288 of 1986

Between:-

L.G. Gunjekar,
Higher Selection Grade II,
Head Record Office,
RMS, HB Division,
HUBLI.

....Applicant.

(Shri A.G. SHIVANNA, ADVOCATE)

and

1. Director of Postal Services,
(HB), Bangalore.
2. Post Master General,
Karnataka Circle,
Bangalore.
3. Sri Aithappa Naik,
Head Sorter,
Mangalore RMS/3,
C/o Sub Record Office,
RMS, Mangalore, D.K.

...Respondents.

(Sri N. Basavaraju, Advocate)

The application having come up for hearing today
before this Court, the Member (J) made the following:

ORDER

This is an application initially filed as a
Writ Petition in the High Court of Karnataka, and

transferred to this Tribunal U/s 29 of the Administrative Tribunals Act, 1985. The facts giving rise to the filing of this application may be briefly stated as follows:-

2. The applicant who was working as Supervisor, Lower Selection Grade (LSG) was promoted on a purely temporary and adhoc basis as Supervisor Higher Selection Grade (HSG) by order dated 19.10.1981 (Annexure 'B'). Thereafter, he was reverted to his original post of SLG Supervisor by order dated 18.8.1984 (Annexure 'A') which is impugned in this application.

3. Shri A.G. Shivanna, learned counsel for the applicant, contends that the order reverting his client and promoting the Respondent No.3 (R3) by the same order is against law, inasmuch as ~~the~~ R3 was junior to him in the lower post. According to the counsel, no adverse remarks or demerits were ^{communicated} ~~pointed out~~ to the applicant, and in the absence of any such communication, the impugned order is legally unsustainable. In support of his contention, he cites the decision of the Supreme Court in AMARKANT CHOUDHARY v. ~~state~~ STATE OF BIHAR AND OTHERS (1984 SCC (L&S) 173).

4. Shri Basavaraju, learned counsel for the respondents, submits that the promotion initially given was purely on



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ad hoc and temporary basis conferring no right on the applicant to continue in that post or for claiming seniority; that the (DPC) Departmental Promotion Committee met on 8.8.1984 and considered the case of the applicant along with others for regular promotion; that, at that meeting, the applicant was found ~~un-~~ fit for promotion on the relative assessment of the merit of the candidates eligible for promotion; that R3 was found fit at that meeting, ^{and} hence he was promoted and ~~the~~ applicant was reverted by the same order. Shri Basavaraju further submits that the promotion ^{was done} ~~xx~~ on seniority -cum - merit basis, and the decision relied upon by the applicant's counsel has no application to the facts of this case, since there were no adverse remarks in the Service Register of the applicant which called for communication to him, as in the case before the Supreme Court cited supra. According to Shri Basavaraju, the applicant was not promoted ^{solely} ~~solely~~ on consideration of relative merit ^{of the eligible candidates} and ~~that~~ the application is devoid of substance.

5. After considering the matter in depth, we are satisfied that the grievance of the applicant is more imaginary than real. On a perusal of the DPC proceedings, it is apparent that the DPC has graded all the candidates

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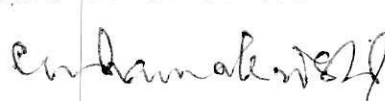
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whom they considered fit, and separated them from those who were found unfit. The selection being based on seniority -cum- merit, the seniority will not per se confer any right on the applicant ~~automatically to question~~ the promotion of R3.

6. Shri Basavaraju has also brought to our notice that the case of the applicant was considered again when the DPC met on 24.5.1985 and his name was approved by the DPC. As a result thereof, he was promoted by order dated 14.6.1985.

7. Shri Shivanna has also urged that his client should be given retrospective promotion from the date on which R3 - who was junior to him - was promoted. We are not impressed by this argument, since, as already pointed out, the selection was based on seniority -cum- merit, and R3 was preferred to the applicant.

8. In the result, the application is dismissed.
There will be no order as to costs.


(CH. RAMAKRISHNA RAO)
MEMBER(J)
30.X.1986.


(P. SRINIVASAN)
MEMBER(A)
30.X.1986.

dms.