

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE SIXTH DAY OF NOVEMBER 1986

Present : Hon'ble Shri Justice K.S. Puttaswamy ... Vice Chairman
Hon'ble Shri L.H.A. Rego ... Member (A)

APPLICATION NO.352/86

K.S. Sankara Raman,
Stenographer,
Small Industries Service Institute,
Rajajinagar,
Bangalore-560 044. ... Applicant
(Shri A.R. Kowjalgi ... Advocate)

V.

The Development Commissioner,
Small Scale Industries,
New Delhi - 110 001.

The Director,
Small Industries Service Institute,
Rajajinagar,
Bangalore-560 010.

Smt. G. Vanaspal,
Stenographer,
Small Industries Service Institute,
Hubli. ... Respondents

(Shri M. Vasudeva Rao. Advocate for R 1 and 2)
(Shri K. Narasimha Murthy . Advocate for R 3)

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

O R D E R

In this transferred application received from the High Court
of Karnataka under Section 29 of the Administrative Tribunals Act,
1985 (the Act), the applicant has challenged order No.A.31016/79-
Admn and No.A.31016/3/78-Admn dated 11th October 1979 (Annexures
C and E) of the Director, Small Industries Service Institute
Bangalore (Director).

2. The applicant who initially joined service as LDC was
appointed as a Stenographer on 17.4.1975 in the office of the
Director.

3. From 1.8.1976, two posts of Selection Grade Stenographers (SGS) in the office of the Director were sanctioned by Government. Against one of these posts the applicant who is senior to respondent 3, was not promoted and the latter who is his junior was promoted. The applicant has challenged his non-promotion and the promotion of respondent 3 as SGS on diverse grounds which will be noticed and dealt by us in due course.

4. In their statement of objections, respondents 1 and 2 have asserted that the case of the applicant was considered for promotion and he was passed over on relevant considerations.

5. Shri A.R. Kowjalgi, learned counsel for the applicant contends that the DPC and the Director had not considered the case of the applicant for promotion though he was senior to respondent 3.

6. Shri M. Vasudeva Rao, learned additional standing counsel appearing for respondents 1 and 2 and Shri K. Narasimha Murthy, counsel for respondent 3 contend that the DPC and the Director had considered the case of the applicant and he was passed over on relevant considerations.

7. In their statement of objections, respondents 1 and 2 have asserted that the case of the applicant for promotion was considered and he was found unsuitable for promotion. We have no reason to disbelieve the assertion of respondents 1 and 2. But in order to satisfy ourselves that what had been asserted by respondents 1 and 2 was correct we directed Shri Vasudeva Rao to produce the records with which he has complied.

8. An examination of the records produced by Shri Vasudeva Rao show that the DPC constituted for the purpose examined the case of the applicant, respondent 3 and others and found that he was

not suitable to hold the post of SGS for the calender years 1976, 1977 and 1978. From this it follows that the case of the applicant that his case was not considered for promotion has no merit.

9. Shri Kowjalgi next contends that the case of the applicant for promotion, must have been considered for the calender year 1979 and such failure was illegal.

10. Shri Vasudev Rao strongly contends that the question of considering the case of the applicant for the calender year 1979 and other years does not arise at all.

11. We have earlier noticed that the case of the applicant was passed over for the calender years 1976, 1977 and 1978 on relevant consideration. When once we hold that the case of the applicant for the calender years 1976, 1977 and 1978 had been passed over on relevant consideration, we find it difficult to uphold the case of the applicant that his case should have been considered for the calender year 1979 and the promotion given to respondent 3 should be undone. We find no law which compels the promoting authority to undo the promotion accorded to respondent 3 on relevant and proper considerations in the year 1979 or thereafter. We see no merit in this contention of Shri Kowjalgi and we reject the same.

12. Shri Kowjalgi lastly contends that the constitution of the DPC which evaluated the claim of the applicant, respondent 3 and others was illegal.

13. Sriyaths Rao and Murthy contend that the constitution of the DPC was legal and the irregularity, if any, in the same, was no ground to invalidate the actions.

14. Admittedly the DPC consisted of three senior officers of the Department.

15. Assuming that one of the guidelines issued by Government required that there should be an outside officer unconnected with the Department, then also the constitution of the DPC, was not illegal. At the highest, the defect if any, in the constitution of the DPC, was only irregular and does not vitiate its proceedings.

16. Even otherwise, this Tribunal should be loath to undo the proceedings of the DPC on the ground that it did not consist an officer unconnected with the Department.

17. As all the contentions urged for the applicant fail, this application is liable to be dismissed. We, therefore, dismiss this application. But in the circumstances of the case, we direct the parties to bear their own costs.

Mr. Park Avenue
VICE CHAIRMAN

[Signature] 6. xi. 86
MEMBER (A)

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