

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH BANGALORE

DATED THIS THE 21st OCTOBER 1986

Present : Honourable Justice K.S. Puttaswamy - Vice Chairman  
Honourable Shri L.H.A. Rego - Member

Application No. 729 of 1986(T)

Syed Noor Mohamed  
S/o Syed Abdul Hassan  
Provident Fund Inspector Grade I,  
Office of the Regional Provident Fund Commissioner  
Bangalore - Applicant

(By Shri V.P. Kulkarni, Advocate)

1. Union of India by its  
Secretary in the Ministry of Labour,  
Shrama Shakti Bhawan, New Delhi 1
2. The Union Public Service Commission  
New Delhi
3. The Central Provident Fund Commissioner,  
9th Floor, 'Mayur Bhawan', Connaught Circus,  
New Delhi 1
4. The Regional Provident Fund Commissioner,  
"Bhavishya Nidhi Bhavan"  
No. 8, Sri Rajaram Mohan Roy Road,  
Bangalore 560 025
5. S.E. Jayaram,  
Provident Fund Inspector Grade I,  
Office of the Regional Provident Fund  
Commissioner, "Bhavishya Nidhi Bhavan",  
Sri Rajaram Mohan Roy Road, Bangalore 560025
6. Ahmed Ramlan,  
Provident Fund Inspector Grade I,  
C/o Office of the Provident Fund Inspector,  
Risaldar Lane, Belgaum - Respondents

(By Sri M.S.Padmarajaiah, Senior Standing Counsel for the  
Central Government)

The application has come up for hearing before  
the Tribunal today, Vice Chairman made the following

O R D E R

... In this

In this transferred application received from the High Court of Karnataka under Section 29 of the Administrative Tribunals Act 1985 (ACT), the applicant has challenged his non-promotion and the promotion of respondents 5 & 6, to the posts of Provident Fund Inspector Grade I (PFI G I) from 27.9.80.

2. The applicant initially joined service as an Upper Division Clerk in the office of the Regional Provident Fund Commissioner, Bangalore (Commissioner). On 13.10.62 he was promoted as a Provident Fund Inspector Grade II on a regular basis and he was confirmed in that post from 3.10.63.

3. On 27.12.74 the applicant was promoted as PFI Gd I on an ad hoc basis. At about the same or thereafter respondents 5 & 6 who are juniors to the applicant in Grade II, were promoted as PFIs Grade I on an ad hoc basis.

4. On 7.10.80, the Departmental Promotion Committee (DPC) met and considered the cases of the applicant, respondents 5 & 6 and others for regular promotions to the posts of PFIs Gd I from 27.9.80. On a consideration of their relative merits, the DPC recommended the promotion of respondents 5 & 6 and the supersession of the applicant for regular promotions from 27.9.80 and accepting the same, the appointing authority had promoted respondents 5 & 6 as PFIs Gd I on a regular basis from 27.9.80. On that basis, respondents 5 & 6 also advance in their career but with those details we are not concerned in this application.

...5. On

12. Shri Kulkarni next contends that in superseding the applicant the DPC had not properly considered all the relevant circumstances and material on record.

13. Shri Padmarajaiah contends that the DPC has properly evaluated the merit of the applicant and others and the same cannot be interfered with by this Tribunal.

14. We have earlier reproduced para 7 of the statement of objections and accepted the same as correct also.

15. When the DPC considers the cases of the eligible officers and makes its recommendations, it must normally be presumed that it considers all the relevant circumstances and records and makes its own assessment which is fair.

An evaluation made by a DPC on the merits and demerits of the officers cannot be examined by this Tribunal as if it is a court of appeal and a different conclusion reached on such evaluation as a court of appeal can do. In this connection it is apt to recall what Elion Kaplan, in his classic treatise The Law of Civil Service at para 19 page 154 of Chapter VI - Powers and Functions of Personnel Agencies had expressed; wherein the learned author had expressed thus :

"19. Judicial Review of Promotion Tests- The courts have indicated the same indisposition to review the content and "practicality" of promotion examinations as they have displayed with respect to examinations for original appointment. So long as the subject matter of the examination indicates a plausible relationship to the functions of the position the courts will not substitute their wisdom or judgement for that of the agency made responsible under the for assuming the examination function. As in the case of original entrance tests, promotion examinations may consist of a battery of tests including written, or oral, or both. They may consist in part of evaluation of education and experience (where such added requirements would be essential), seniority in service (based either on length of service in the jurisdiction or in the department or in the position last held), and service record ratings indicating the efficiency and competence of the employee."

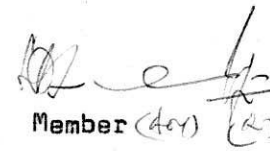
...On this

On this statement of law with which we have concurred in Application Nos. 141 and 142 of 1986 S Kalyanam & others v Union of India & others decided on 13/14-10-1986 we are of the view that we should be slow to interfere with the evaluation made by the DPC without unnecessarily compelling the production of the DPC records for which Shri Kulkarni made a passionate plea. We see no merit in this contention of Sri Kulkarni either.

16. As all the contentions urged by 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 costs.



Vice Chairman



21.12.1986

Member (for) (R)

5. On 27-3-1981 the applicant approached the High Court in writ petition No. 5396 of 1981 challenging the promotions of respondents 5 & 6 and his supersession to the posts of PFIs Gd I on a regular basis. On its transfer that writ petition has been registered as Application No. 729/1986.

6. Among other grounds, the applicant has urged that the DPC had not considered his case for promotion and even if it had considered his case, then also it had not properly considered his case for promotion.

7. In their statement of objections filed before the High Court, respondents 1 to 4 have asserted that the DPC had considered the cases of the applicant, respondents Nos. 5 & 6 and others who were eligible and found that respondent No. 5 & 6 and others were suitable but the applicant was not considered suitable for promotion.

8. Shri V.P. Kulkarni learned counsel for the applicant strenuously contends that the DPC had not considered the case of his client for regular promotion and the same was violative of Art 16 of the Constitution.

9. Shri M.S. Padmarajaiah, senior standing counsel for the Central Govt appearing for respondents 1 to 4 contends that there was no truth and merit in the contentions of the applicant from what had been stated in para 7 of the statement of objections

10. In meeting the case of the applicant that his case had not been considered by the DPC for promotion, respondents 1 & 4 have stated at para 7 of their statement of objections thus :

....Eventually

"Eventually, steps having been taken to make regular promotions to fill up the relevant posts (about 35 vacancies) on permanent basis the D.P.C., considered the case of large number of Provident Fund Inspectors Gr.II who were eligible and were within the zone of consideration or field of choice for selection on the basis of merit, to be promoted to the said vacant posts. The case of the petitioner who fell within the zone of consideration was also duly considered. On such consideration of the relative merits of those who fell within zone of consideration, the petitioner was not found possessed of such merit as to warrant his inclusion in the select list and therefore, did not recommend the petitioner's case for promotion. Further, although respondents 5 & 6 and some others were juniors to the petitioner their cases were also considered by the D.P.C., as they fell within the zone of consideration and on account of their relative merit, the D.P.C., recommended and selected them for being promoted to fill the vacant posts."

This statement is verified by one Shri P.Haridasachar who was then working as the Regional Provident Fund Commissioner of Karnataka, Bangalore.

11. From the statement made at para 7 which we have no reason to disbelieve and accept the same as correct, it is clear that the DPC had considered the case of the applicant and others and found that respondents 5 & 6 and several others were suitable and that the applicant was not suitable for promotion. When once we accept the said assertion of respondents 1 to 4, it follows from the same, that we cannot accept the case of the applicant that his case had not been considered for promotion. We see no merit in this contention of Sri Kulkarni and we reject the same.

....12. Shri

